SEATTLE KING COUNTY REALTORS®

Fourth Quarter Edition
October-December 2019

Issues & Impacts

Seattle King County REALTORS® is working to ensure that public policies support homeownership and your business's bottom line. Please contact Governmental & Public Affairs Director David Crowell, dcrowell@nwrealtor.com, with any local legislative issues that may need our attention. **The next issue will be released in April 2020.**

In this issue:

HUD's new FHA condo rule: Is it helping here in King County?

In August, the U.S. Department of Housing and Urban Development (HUD) released its long-awaited "final rule" on "project approval" for single-family condominiums insured by the Federal Housing Administration (FHA). The rule is important for REALTORS® and their clients because it eases restrictions on FHA financing for condominiums, thus enabling more first-time buyers, older adults, and low to moderate-income families to achieve the dream of homeownership.

Your Door to FHA HOMEOWNERSHIP

The new FHA Condo Rule took effect on October 15, 2019.

What has been the result in King County?

It's likely too soon to claim a direct "cause and effect" regarding the impact of the new "final rule" for members of Seattle King County REALTORS®, but preliminary gross data from NWMLS appear to support cautious optimism:

- In the 30 days before to the effective date of the new rule, 39 condominiums went "pending" in King County, at a median price of $459,000.
- But in the first 30 days after the rule became effective, 406 condominiums went "pending" in King County, at a median price of $435,000.

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So, what's in the new rule that should help spur FHA-financed Condominium Transactions?

At least six things:

1. Single Unit Approval (SUA) is Allowed, Again
In the aftermath of the Great Recession, HUD suspended the ability of FHA borrowers to obtain financing for a condominium purchase in a non-FHA approved property (often referred to as "spot loans"). This greatly reduced the available supply of condominiums to FHA borrowers. Under the new rule, FHA borrowers can once again obtain Single Unit Approval (SUA) on non-FHA approved condominium properties that meet the following requirements:

- At least five units
- A limited concentration of FHA-insured units
- At least 50 percent owner-occupancy, &
- A maximum of 35 percent commercial space.

Allowing "Single Unit Approvals" once again will increase the supply of condominiums that can be financed using FHA financing and offer many more affordable home ownership opportunities for FHA borrowers.

2. Longer Times Before Re-Certification Is Required
HUD has increased the certiciation period for FHA condominium properties from two years to three years (+50 percent) with an additional six-month grace period after the certification "end date" to submit re-certification materials.

This gives each condominium property an additional 12 months of approval, plus a six-month grace period for submitting re-certification materials. It will reduce costly and time-consuming efforts condominium associations face to maintain FHA approval.

In addition, condominium associations will continue to be able to submit an updated re-certification package rather than the full certification package each time. NAR anticipates many more condominium properties will apply for FHA eligibility with these changes, greatly improving access to affordable condos for many households.

3. Larger Commercial Space On-Site to Serve Condo Owners
HUD has increased the commercial space allowed in an FHA approved condominium project from 25 percent to 35 percent. In addition, HUD will allow exceptions up to 49 percent. HUD has the discretion to issue mortgagee letters to change the allowable commercial space to be within 25 percent and 55 percent, if necessary.

National Association of REALTORS (NAR) urged HUD to increase the allowable commercial space in a given property as more and more buyers are looking to live in areas with a variety of housing, retail and public transportation options. Increasing the allowed commercial space should also enable more properties to become FHA-approved, increasing general access to the housing supply in many areas.

4. Owner-Occupancy Requirement
The current requirement is 50 percent.

For properties over 12 months old, with less than 10 percent of their units in arrears, HUD may approve an owner-occupancy level as low as 35 percent. This removes the previous onerous requirement that properties demonstrate reserves at 20 percent (or higher) to allow for reduced owner-occupancy.

HUD also has the ability to establish a different owner-occupancy level by mortgagee letter

between 30 percent and 75 percent, which allows flexibility in responding to changing market needs.

5. FHA Concentration
The current maximum FHA insurance concentration is no more than 50 percent of the units in the project.

Under the final rule, HUD has the ability to establish a different FHA concentration level by mortgagee letter (between 25 percent and 75 percent) to allow for a quicker response to changes in the real estate market.

6. Single Investor Ownership
Currently, a single investor in an FHA approved property can own up to 10 percent of individual units in a condominium project that contains more than 20 units. For properties with less than 20 units, a single investor may own no more than one unit.

For single unit approval, a single investor may own no more than 10 percent of the units in properties with 20 or more units, and no more than one unit in a property with less than 20 units.

NAR President John Smaby said, "It goes without saying that condominiums are often the most affordable option for first-time homebuyers, small families and those in urban areas. This ruling, which culminates years of collaboration between HUD and NAR, will help reverse recent declines in condo sales and ensure the FHA is fulfilling its primary mission to the American people."

Fannie Mae and Freddie Mac loan limits increase statewide - even higher limits in King, Pierce, & Snohomish Counties

In late December, Fannie Mae and Freddie Mac increased their loan limits!

- The **Conforming Loan** limit for a single-family home was previously $484,350. The new limit is now **$510,400!**

- The **Conforming Loan** High Balance limit for a single-family home in King, Pierce and Snohomish Counties was $726,525. The new limit is now **$741,750!**

Veterans Affairs (VA) uses the Fannie/Freddie limits, so REALTORS'® VA clients could do a "$0 down payment" loan up to $510,400 in all Washington counties, and up to **$741,750** in King, Pierce, and Snohomish Counties. If a "VA Buyer" purchases a property for more than the new Fannie/Freddie limit, they only have to put down 25 percent of the difference between the limit and the sale price.

FHA loan limits usually come out shortly after Fannie and Freddie limits, and are typically 65% of Fannie May loan limits.

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Fannie-Freddie Loan Limits		
Property Type	Conforming Loans Statewide	Conforming High Balance Loans in King, Pierce & Sno. Counties
SFR	$510,400	$741,750
Duplex	$653,550	$949,600
Triplex	$789,950	$1,147,800
4-Plex	$981,700	$1,426,450

For a map showing the 2020 maximum loan limits across the U.S., visit:
https://www.fhfa.gov/DataTools/Tools/Pages/Conforming-Loan-Limits-Map.aspx

Loan Limits: More good news likely in 2020 for VA borrowers

Starting January 1, 2020, the VA will not cap the size of a loan that a veteran can get with no money down, paving the way for veterans to buy higher-value homes.

Specifically, there will not be a limit on VA entitlement as long as the veteran has full entitlement. The VA will guarantee 25 percent of the sales price. That means that a down payment will not be required, even if the loan is over the Freddie Mac loan limit. If for any reason the veteran does not have access to their full entitlement, the entitlement amount will be calculated as it currently is (25 percent of Freddie Mac loan limit x 25 percent - entitlement used).

The other change that comes with the new law will affect fees for some veterans. VA charges most veterans a "funding fee" when a VA loan is issued. There are different funding fees depending on the kind of loan and the situation of the borrower. The change, however, eliminates the funding fee for some users. Purple Heart recipients still on active duty will no longer be subject to the funding fee starting January 1, 2020.

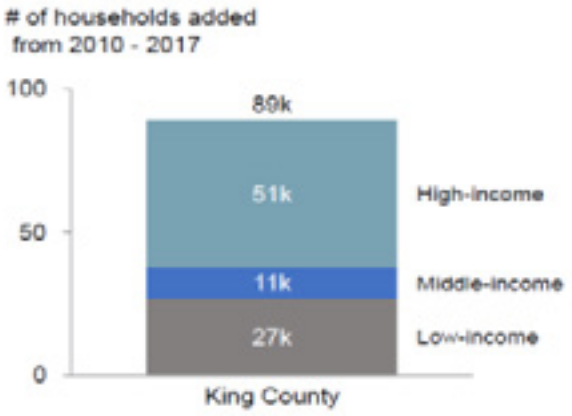
Housing Supply

Seattle to Study Multifamily Housing in Single Family Zones

Councilmember Teresa Mosqueda has added a line-item to the city budget that will require the city's Office of Planning & Community Development to study the effects of allowing small-scale apartments inside Seattle's single-family zoning. Housing types would include **duplexes**, **triplexes**, **fourplexes**, and **row houses**.

Mosqueda believes that adding these housing types to the single-family zone will increase housing supply for the "missing middle."

The issue will be debated in the 2020 Comprehensive Plan update.



Woodinville Housing Strategy

The Woodinville City Council has begun a series of study sessions to learn about the dynamics of contemporary housing development. The sessions cover local resources for **housing policy**, **housing development**, and the growing issue of **'missing middle' housing**. The sessions will also help the Council develop an informed scope for the city's upcoming Housing Strategy.

The Housing Strategy will analyze Woodinville's current socioeconomic context and housing inventory to develop goals and policies aimed at improving the availability of housing to people of all incomes and will serve as an important guiding document for housing-related issues over the next few years.

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Regulatory Issues

Seattle Green New Deal: Will there be a prohibition on natural gas piping in new construction?

As reported this fall, the Seattle City Council is developing a Green New Deal for Seattle inspired by the Green New Deal introduced by progressives in Congress.

The council intends to pursue a range of initiatives relating to **carbon reduction, development of "green jobs"**, and **funding for new programs in disadvantaged communities**. It includes an aggressive, 10-year goal to make Seattle free of climate pollutants - those that cause shifts in climate patterns, including CO2, black carbon, methane, nitrogen oxides, and fluorinated gases.

Two pieces of legislation have led off the Green New Deal: A **prohibition on natural gas piping in new construction** and an **additional tax on home heating oil**.

Seattle King County REALTORS® (SKCR), in collaboration with Puget Sound Energy (PSE), labor, the building owners and Managers Association, and others succeeded in moving the proposal off the fast track, arguing that a thorough analysis of the impacts and input from all stakeholders are critical first steps in a city in which almost 150,000 homes and businesses use natural gas. The group is calling for year-long feasibility study in 2020 and to involve a broad range of stakeholders in the process, including our customers and labor unions before moving forward on this proposal.

According to PSE, on the coldest days of the year, the natural gas system provides about two-thirds of the energy used by the city of Seattle.

SKCR is particularly concerned that the **prohibition on gas service in new construction** could easily expand to a prohibition on selling an existing home with oil heat and/or natural gas, enforced at the point of sale point-of-sale.

The Seattle Times has reported that Berkeley and San Jose, California, have both taken votes recently to prohibit natural gas in new homes.

An **additional tax on home heating oil** was proposed by the Mayor and passed by the council in September. SKCR urged that all owners of oil heat systems have access to a subsidized conversion and tank removal program. As passed, only low-income households will be eligible for grants to transition from oil heat to electric.

Proposed Regional Fuel Standard: Higher cost to gasoline?

The Puget Sound Clean Air Agency (PSCAA) is proposing to adopt a low carbon fuel standard (LCFS) within King, Pierce, Snohomish and Kitsap counties.

The LCFS would be modelled after statewide policies in California and Oregon.

The LCFS in California has increased the cost of gasoline by approximately 13 cents per gallon. Because the policy is only partially implemented, the state's Legislative Analyst Office estimates that fuel costs will continue to increase by roughly 46 cents per gallon by 2030. PSCAA's own economic study projects potentially similar fuel cost increases.

A public hearing on the proposal was scheduled to be held on December 19. While SKCR has not taken a position on the proposal, we are monitoring the issue due expected cost impact on members.

SeaTac struggles with the issues of concurrency, predictability and cost recovery

The city of SeaTac is attempting to establish A Transportation Concurrency Permit Process to meet requirements in Washington's Growth Management Act (GMA), and to increase predictability and consistency for both staff and the development community.

The issue is important for the housing construction industry, as well as REALTORS® who sell newly constructed homes, because without a determination by the City that a proposed development meets concurrency standards, the new housing construction will not be allowed to occur. Builders have less profit, brokers have fewer commissions, and buyers have fewer housing options.

Transportation "concurrency" is a concept embodied in both the GMA, and in the local Comprehensive Plans of cities. Concurrency requires that public transportation infrastructure, facilities and services be available on a timely basis to address transportation challenges - including congestion - that accompany the new growth. To maintain concurrency means that adequate public facilities are in place to serve new development as it occurs, or within a specified time. When that happens, transportation improvements are said to be "concurrent with development."

SeaTac officials say that concurrency has the potential to be an important tool to assist with developing and maintaining an arterial street and highway system that reduces the adverse impacts of regional and airport traffic on city arterials, cost-effectively improves safety for all travel modes, and manages congestion to reduce delays and the impacts of traffic diverting through neighborhoods.

SeaTac currently uses the city-adopted "Level of Service Standard (LOS)" in the Comprehensive Plan as a basis for determining whether new development can proceed or will be prohibited until concurrency is achieved.

Each development (or redevelopment) that generates new "PM Peak-Hour Vehicle Trips" is required to submit an application for, and pass, concurrency review before completing other land-use processes.

The City's concurrency review is conducted using the processes delineated in the State's Environmental Policy Act (SEPA), but the approach lacks predictability, transparency, and consistency for the developer. It also does not allow for effective cost recovery by the engineering review division.

City staffers said they have worked with Transpo Group (the City's transportation services consultant) to develop a concurrency program that will enable city engineering review staff members to more consistently and effectively implement and track concurrency, improve engineering review cost recovery, and better serve the development community.

Following a review and evaluation of the City's current Level of Service (LOS) Concurrency Standards, and LOS standards and transportation concurrency management methods likely to best meet City objectives, a hybrid approach was recommended for implementation.

Once adopted, the Engineering Review Division of the City's Community and Economic Development Department will administer and implement the program on a cost recovery basis. The City says that increases in staff time spent on implementing the concurrency program would be offset by the reduction in time spent on reviewing Transportation Impact Analysis and SEPA documentation.

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Burien's Rental Housing Inspection Program approved by City Council

The Burien City Council has approved the City's first Rental Housing Inspection Program. The Council also approved the hiring of a Rental Housing Inspection Coordinator who will manage the program and work with residents who need assistance with rental housing issues.

The City says the new program will be designed to help the City proactively monitor housing conditions in rental units and help prevent habitability issues that have occurred in buildings in the past. Burien is the one of the few cities in Washington state to implement this type of program.

In enacting the ordinance on September 16, 2019, the City noted that establishing proactive rental inspection policies is a strategy recommended by the Regional Affordable Housing Task Force.

Details of the City's program will be developed over the next year, in time for inspections to begin in 2021. The City says it will conduct extensive outreach to landlords, property managers, and renters in 2020 to prepare them for the new program, and that information about the new program and other renter housing policies will be added to the city of Burien website in 2020.

In the meantime, a copy of Ordinance 715 approving the Rental Housing Inspection Program is available online at: https://burienwa.gov/UserFiles/Servers/Server_11045935/File/News_Events/News_Announcements/BMC%205.62.pdf

Kent's new regulations target boarding homes and room rental businesses

The city of Kent's Land Use and Planning Board (Planning Commission) has recommended the City Council approve regulations designed to target AirBnBs, Boarding Homes and Room Rental Businesses that the city claims are operating under the guise of a "Group Home."

According to the City, a variety of housing arrangements are protected under state and federal law, particularly those requiring care, such as elderly or disabled individuals. State law (RCW 70.128.140) requires adult family homes to be allowed in all areas zoned for residential or commercial use. Such facilities require a state license, are limited to no more than six residents and require inspections every 18 months.

Currently, Kent addresses these legal mandates by allowing what the code refers to as "Class I Group Homes," which are then divided into Class I-A (which allows a max. of six residents) and Class I-B (which allows a max. of 10 residents).

- Class I-A are allowed in all residential and commercial zones.
- Class I-B are only allowed in multi-family and commercial zones. However, the city's definition is broader and also includes "other groups," resulting in some homes which do not require a state license.

The City says it has received complaints that some "group homes" in Kent are operating with substandard living conditions and may in fact be boarding homes or room rental businesses operating under the guise of a group home. Additionally, some homes are renting extra rooms as short-term rentals on internet platforms, such as AirBnB, sometimes resulting in neighborhood parking complaints.

In response, city staff developed a draft ordinance that would amend the zoning code to "better define these various uses, prevent multiple uses in the same home, ensure safe and healthy facilities and limit neighborhood impacts." The ordinance - approved by the Land Use and Planning Board, and would amend KCC 15.02 & 15.04 - proposed the following changes to the Zoning Code:

For Group Homes and Adult Family Homes

- Reference state definition of "adult family home" within Class I Group Homes definition, & remove "other groups" phrase
- Delete the Class I-B Group Homes classification to prevent larger group homes
- Define the term "provider"
- Require a city business license, and proof of any required state license
- Prohibit other residential uses (such as a communal residence or short-term rental) from operating on the same parcel as a group home
- Allow ADU's on the site of group homes, but only if used as part of the operation of the group home and not leased or sub leased to a separate family
- Limiting family members of a group home provider to spouse and children only

For Boarding Homes and Short-Term Rentals

- Change the term "boarding or lodging home" to "short-term rental" with similar definition, but limit rentals to 30 consecutive nights
- Require a city business license
- Require compliance with the new state law for short-term rentals (RCW 64.37)
- Limit to three rooms max. in a home that can be offered for short-term rental
- Require an owner or non-transient tenant to live there at least six months per year

For Long-Term Rentals

- Add and define a new use category called "Communal Residences"
- Limit to three rooms leased or sub-leased
- Require a city business license
- Require rooms to have adequate space, light, electricity, emergency egress, smoke detectors and access to adequate sanitation and eating facilities
- Reduce number of un-related individuals considered a "family" from six to four

Legal Actions

Multi-family rental housing: Will Seattle's new regulations drive multi-family builders and landlords to south King County, and beyond?

Is Seattle driving landlords and multi-family builders to South King County, other areas of the Central Puget Sound, and beyond? It's becoming an increasingly pressing question that could be long-term bad news for renters.

On the flipside, it might result in builders and investors choosing to favor construction of new condominiums over construction of new apartments. Because "capital is mobile" and easy to move, there is little to prevent investors and landlords looking outside Washington for greener pastures, instead of changing their business model to favor condominiums. The city of Seattle may create a handful of temporary "winners", but it likely means long-term bad news for renters.

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Here's what has been happening:

The Seattle City Council approved a "Grand Bargain" to add new housing inside the city limits. It's helping to increase the number of new housing units the city will allow to be built, but not enough to ensure there is enough housing for everyone who needs a place to live, especially as companies add new workers.

The result is that **increases in rental rates continue to far-outpace increases in household incomes, especially for long-time renters**. So, the city of Seattle has targeted landlords for new regulatory burdens, hoping to protect renters from the multi-faceted consequences of the City's failure to allow enough housing to be built to accommodate both existing households, and newly arriving workers.

Some local REALTORS® - particularly those who specialize in property management and guidance for investors - are working to educate clients about five new "tenant rights" ordinances that have been approved by the City Council, which amend the Seattle Municipal Code (SMC) – as well as two recent court cases:

1. **City-Mandated Information Must be Included in Notices to Tenants**
   Seattle now requires that Notices to Tenants, which affect a tenant's rights, must include city-mandated information regarding resources available to tenants, including resources to help tenants oppose the action of the landlord. If required information is not included, the notice may be invalid.

   Notices that impact tenants' rights include:
   - Notices to Terminate, Quit, Comply and/or Vacate
   - Notice to Increase Housing Costs (Rent Increases)
   - Notices to Enter the rental unit

   The city of Seattle Department of Construction and Inspections (SDCI) is drafting a 'Director's Rule' providing the exact language requirement and will notify landlords when complete. (SMC 22.206.180.K as amended; became effective November 3, 2019)

2. **New Limits on Serving Eviction Notices**
   Landlords are prohibited from serving any eviction notice unless the landlord has first registered the rental premises with the city under Seattle's Rental Registration Inspection Ordinance (RRIO).

   The restriction applies to:
   - Any 14-day notice to "Pay or Vacate"
   - Any 10-day notice to "Comply or Vacate"
   - Any three-day Notice to "Quit"

   Prior to these changes, registration was not required until an unlawful detainer (eviction lawsuit) was filed in the Superior Court. (SMC Sections 22.206.160.C and 22.214.075 as amended; became effective November 3, 2019)

3. **Rent Payment Regulation**
   Landlords are not required to accept cash payments from renters who have difficulty making rent payments electronically, but under the new Seattle regulations, landlords must:
   - Give receipts if tenants pay rent in cash and must also give receipts for other payment types when requested
   - Landlords must also give tenants a non-electronic option to pay their rent, including recurring periodic charges associated with the tenant's rental agreement, such as third-party billing for utilities. (SMC 7.24.030.E as amended; became effective November 3, 2019)

4. **New Prohibitions on Landlords Holding Renters Accountable When Landlord's Property Is Damaged by a Person Perpetrating Domestic Violence on Tenant**
   Landlords may not recover the cost of repairs from the tenant if the damage to the Landlord's rental property was caused by a person perpetrating domestic violence on the tenant. The prohibition will become effective on January 1, 2020.

   A mitigation fund will be created to help reimburse landlords when their property is damage by a perpetrator of domestic violence. The ordinance creating the mitigation fund will become effective on July 1, 2020. (SMC 7.24 as amended)

5. **Restriction on Landlord's Ability to Limit Roommates**
   In an attempt to increase access to housing that renters can afford, the Seattle City Council has voted to change the rules that regulate the ability of renters to share housing with family members and roommates.

Under the new rules, which will take effect on July 1, 2020:

- Landlords are required to allow a tenant's immediate family, one additional un-related roommate, and the un-related roommate's family members to reside together, up to the legal occupancy limit.
- If there is a change in which individuals are occupying the premises, the tenant must notify the landlord.
- Landlords may screen occupants and may also require each of the additional individuals who are occupying the premises to become a party to the rental agreement, thereby subjecting them to the rules and responsibilities in the contract.

Tenants receiving federal housing subsidies may be exempt from the new rules, as well as tenants residing in rental units where the landlord also lives on the property. (SMC Sections 7.24.030.H, 7.24.031, and 7.24.032 as amended)

The Seattle "First in Time" Lawsuit

The Seattle City Council is not alone in making decisions that could serve as a disincentive for landlords and investors to look elsewhere for opportunities to invest their money and time to create rental housing opportunities.

On November 14, 2019, the Washington State Supreme Court overturned a decision by the King County Superior Court, and upheld Seattle's "First in Time" (FIT) ordinance, which was passed by the Seattle City Council in 2016.

The ordinance became effective January 1, 2017.

Landlords were required to comply with the new ordinance beginning July 1, 2017.

At the core of the City's FIT ordinance - which is set forth in section 14.08.050 of Seattle's Municipal Code - is a provision that requires a landlord to rent an apartment or home to the first qualified applicant who applies, rather than weighing all applicants at once. See FAQs prepared by the City.

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According to the Supreme Court, when a property owner seeks to fill a tenancy, a landlord in the city of Seattle must:

- Provide notice to a prospective occupant of the criteria the owner/landlord will use to screen prospective occupants, and the minimum threshold for each criterion, and all information, documentation, and other submissions necessary for the owner to conduct screening.
- The property owner must "note the date and time of when the owner receives a completed rental application"
- Then, the landlord must "screen completed rental applications in chronological order"
- If - after conducting screening - the owner needs more information than was stated in notice, they "notify the prospective tenant (in writing, by phone, or in person) of what additional information is needed.
- Finally, property owner must "offer tenancy of the available unit to the first prospective occupant meeting all the screening criteria necessary for approval of the application."

The first qualified applicant has 48 hours to accept tenancy offer. If they do not accept, "the owner shall review the next completed rental application in chronological order until a prospective occupant accepts the owner's offer of tenancy."

There are exceptions to these general procedures:

- No part of the FIT rule applies "to an accessory dwelling unit or detached accessory dwelling unit wherein the owner or person entitled to possession thereof maintains a permanent residence, home or abode on the same lot."
- An owner does not have to offer tenancy to the first qualified applicant if the owner "is legally obligated to" or "voluntarily agrees to set aside the available unit to serve specific vulnerable populations."
- The rule also contains procedures for potential occupants with disabilities to seek "additional time to submit a complete rental application because of the need to ensure meaningful access to the application." (For purposes of determining “first in time” priority, the date/time of the “request for additional time” replaces the date/time the application is submitted.)

In August 2017, the ordinance was challenged in court by landlords in Seattle as a violation of the Takings, Due Process, and Free Speech Clauses of the Washington State Constitution. They also sought a permanent injunction forbidding the City from enforcing its “unconstitutional rule."

In an unanimous decision, authored by Justice Mary Yu, the Washington State Supreme Court rejected all claims in the landlords’ lawsuit.

The Washington State Supreme Court’s decision overturns dozens of previous rulings over the years, with the court citing an evolving federal precedent as its justification. In a statement published by Seattle Times in November, Seattle City Attorney Pete Holmes said, “This ruling has been years in the making, and we prevailed thanks to smart lawyering and an eye toward addressing antiquated decisions of the past.”

The plaintiffs appear likely to file a “writ of certiorari” with the United States Supreme Court (which is a request for the U.S. Supreme Court to review the Washington State Supreme Court’s decision).

Litigation of Seattle's "Fair Chance Housing Ordinance" That Restricts Landlord Inquiries into Arrests, Convictions & Criminal History of Prospective Tenants

A second decision by the Washington State Supreme Court - authored by Justice Mary Yu - set the stage for an additional defeat for landlords and investors who believe they should be able to inquire about a tenant's arrests, convictions and criminal history when renting out their properties. Seattle landlords - led by Chong and Marilyn Yim, and the Rental Housing Association of Washington - filed a lawsuit in Federal District Court challenging the constitutionality of Seattle's "Fair Chance Housing Ordinance" in SMC 14.09.025(A)(2).

The ordinance prohibits landlords and tenant screening services from requiring disclosure, inquiring about, or taking an adverse action against a prospective occupant or tenant based on any arrest record, conviction record, or criminal history, subject to certain exceptions.

The plaintiffs claim that the plain language of the provision violates their state constitutional rights to substantive due process in Section 3 of Article I of the Washington state constitution, and their federal constitutional rights to free speech and substantive due process under the 1st, 5th and 14th amendments to the United States Constitution.

Before it issues a judgment in the federal lawsuit, the Federal District Court posed ("certified") three questions to the Washington State Supreme Court regarding the "standard of review" (similar to the "burden of proof") that should be used by the federal court in analyzing the alleged violations of the state constitution.

In a 6-3 split decision, the Washington State Supreme Court said the federal courts should use the "rational basis" standard of review in deciding the state constitutional claims. Stated simply, "the challenged law must be rationally related to a legitimate state interest." That is a very low bar for a city to meet in order to avoid liability for infringing on private property rights.

The Washington Supreme Court's answer to the questions posed by the federal district court is a new twist in how such questions will be answered in Washington state going forward, and it makes it likely that the landlords and the Washington Rental Housing Association will lose the state constitutional claims in their lawsuit if the city can point to any reason the ordinance is related to a legitimate state interest, such as access to housing for everyone.

A final decision in the federal litigation has not yet been issued, but the outlook now turns bleak for any hope the Washington Constitution will be sufficient to protect the private property rights, and due process rights, of landlords from current and future regulatory enactments by the city of Seattle for the benefit of tenants.

Every time new regulations create additional disincentives for investors and landlords to participate in the housing market, the supply of housing is likely to be constrained in the face of increasing demand. Over time, it is renters - not investors and landlords - who will be most negatively affected. Investors and landlords can choose to take their money and invest it elsewhere, not just outside of Seattle, but outside of Washington state. But the renters they leave behind will likely have fewer housing options as a result of the City's regulatory fervor.

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IN OTHER NEWS

Good news for buyers & sellers in Highline School District: Graduation rate soars -Again!

The national research is clear and consistent: **strong schools support higher home resale values**. Schools help to define communities, and one of the first things buyers ask is, "How are the Schools?"

That's why the good news from the Highline School District will be important, not only to REALTORS®, but also to their clients and customers:

The Graduation Rate in the Highline School District is up for the 6th year in a row!

The Class of 2019 graduated at 83.3%, compared to the statewide average of 79.3%. That's an increase of 21 points (or 33.7%) since 2013 in the Highline School District.

Dr. Susan Enfield, Superintendent of Highline Public Schools, said,

> "Our graduation rate is rising at a time when we are requiring more of our students, and when more students are taking demanding college-prep coursework. We are very proud of that. I credit our dedicated teachers, principals and support staff for their commitment to know every student by name, strength and need. We know that excellent schools are one of the most important factors homebuyers consider when choosing where to locate, and our results show that Highline schools are delivering for the children and families of our community."

The Highline School District serves the communities of Burien, Des Moines, Normandy Park, SeaTac and White Center with 33 schools, including 18 elementary schools, five middle schools, and four comprehensive high schools. Families may also want to explore Highline's four "Choice Schools" or multiple alternative education options.

According to Enfield, the single most important driver of student achievement is an excellent teacher in the classroom. Highline is in the "Top four percent" of Washington's 295 public school districts in the number of "National Board-Certified Teachers."

The work of teachers in the Highline School District is demanding, not only because of high expectations, but also because the District's 19,287 students speak 101 languages. 69 percent are eligible for free or reduced lunch, and 28.8 percent are English Language Learners (ELL). Instead of fixating on those challenges, the District is focused on ensuring "Every child in Highline Public Schools is known by name, strength and need, and graduates prepared for the future they choose."

Graduation rates continue to rise for all groups, with students of color seeing the greatest gains: The steady gains come as graduation requirements are increasing and more Highline students are taking advanced high school coursework, including Advanced Placement, International Baccalaureate, College in the High School and computer sciences.

Student Group	Class of 2013	Class of 2019
Overall	62.3%	83.3%
American Indian	38.9%	53.3%
Asian	72.1%	89.0%
Black/African American	54.6%	76.5%
Hispanic	50.1%	77.6%
Pacific Islander	47.9%	76.7%
Two or More Races	71.7%	91.6%
White	72.8%	90.6%
Special Education	29.0%	60.1%
English Language Learners	40.3%	60.0%
Free & Reduced Priced Meals	54.8%	79.2%

2019 Best Places to Raise a Family in Washington State: Maple Valley Ranked #8

Maple Valley was ranked by WalletHub.com as the "Number 8" on the company's list of "2019 Best Places to Raise a Family in Washington State."

WalletHub.com describes itself as the leading online personal finance outlet. To determine the most suitable places in Washington for putting roots down, WalletHub's analysts compared 114 cities in the state across 21 key metrics. The data set ranges from median family income, to school-system quality, to housing affordability.

The full report can be viewed at: https://wallethub.com/edu/best-places-to-raise-a-family-in-washington-state/34120/

Taxation

Property Taxes: Cities will be able to increase 2020 property tax collections by one percent without a vote of the people or an ordinance demonstrating "Substantial Need" for one percent.

State law places limits on the ability of cities to increase the total dollar amount of property taxes they can collect without a vote of the people. Typically, the total dollar amount that may be collected is equal to the prior year's property tax collections, plus the lesser of inflation, or one percent.

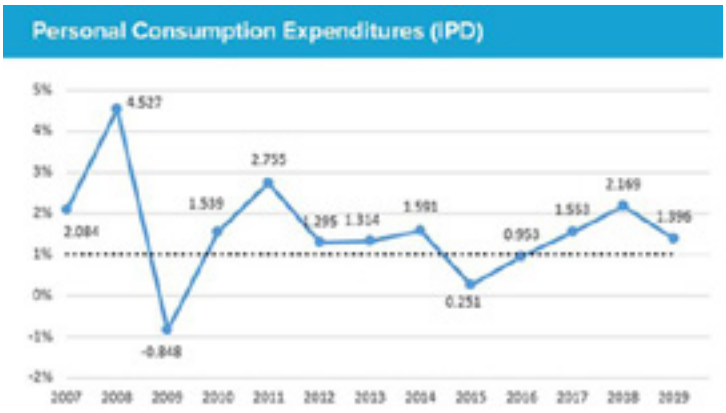
Each year, the Washington State Department of Revenue announces the "Implicit Price Deflator (IPD)" national measurement of the rate of inflation on personal expenditures for the prior year. The calculation of the Implicit Price Deflator is made by the federal Bureau of Economic Analysis (BEA). As of August 29, 2019, the IPD rate of national inflation for personal consumption expenditures over the past 12 months was 1.396 percent.

This means local governments, regardless of whether they have populations greater than or less than 10,000, may levy the full one percent increase as allowed by state law, or bank this capacity for future use. Local government entities must still adopt a property tax levy ordinance

stating the increase over last year's levy in terms of a dollar amount and percentage.

This is the first year since 2016 that the IPD inflation factor has declined; However, it is still above the one percent inflation mark, which means that local government entities that levy property taxes do not have to be concerned about adopting a separate ordinance and/or resolution demonstrating "substantial need" for the full one percent.

From a historical perspective, during the past 10 years, the IPD has fallen below the 1 percent inflation mark three times: In 2009, 2015 and 2016; and before 2009, the inflation factor had not fallen below one percent since 1998.



Issues & Impacts

Protecting Your Business

Elections in 2019

Laws govern the way in which you conduct your business and affect your bottom line. Laws are made by elected officials. This year elections were focused on city councils throughout King County, the King County Council, and the Port of Seattle. The general election was on November 5.

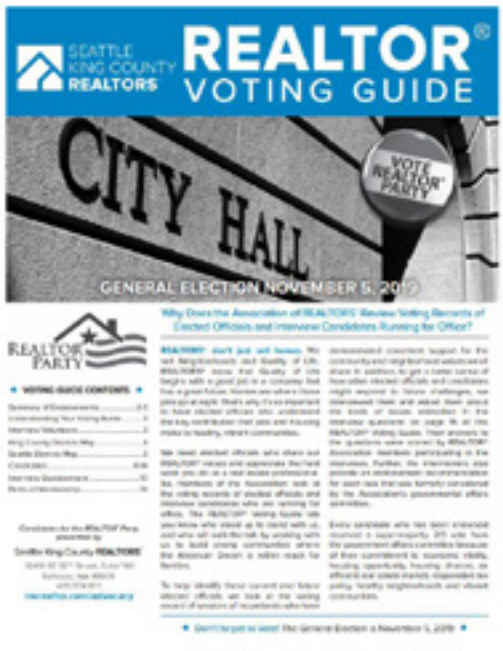
REALTORS® don't just sell homes. We sell neighborhoods and Quality of Life.

REALTORS® know that Quality of Life begins with a good job in a company that has a great future. Homes are where those jobs go at night. That's why it's so important to have elected officials who understand the key contribution that jobs and housing make to healthy, vibrant communities.

We need elected officials who share our REALTOR® values, and who appreciate the hard work you do as a real estate professional. So, members of the Association reviewed voting records of elected officials and it's why your REALTOR® colleagues interviewed candidates running for office.

This year, SKCR worked to protect and enhance your business by reviewing voting records of incumbents, conducting candidate endorsement interviews, and supporting candidates for local office (city councils, county council) who share our REALTOR® values. We mailed you the REALTOR® Voting Guide for the November 5 general election so that you could make a more informed voting decision.

70% of our 64 endorsed candidates won their elections.



Seattle General Election

This year, seven of the nine Seattle City Council seats were up for reelection. Four incumbents chose not to seek reelection.

The business community organized chiefly by the Seattle Chamber political action committee "CASE," recruited and supported more moderate, but still electable candidates to bring more responsible governance to the city.

The primary and general elections were marked by unprecedented spending by independent expenditure campaigns. Total PAC/ independent expenditure spending was $8.2 million, nearly double the spending by candidates themselves ($4.8 million).

Post-election opinion research is not yet complete, but it appears that Amazon's $1 million contribution to CASE in mid-October was not well received by voters. Amazon's spending ($1.45 m) changed the narrative of the election from referendum on the current council to referendum on big business' influence on the city. It became a national story and captured the attention of presidential candidates Elizabeth Warren and Bernie Sanders. Both condemned attempt to buy the election and used their supporter lists to promote non-CASE backed candidates.

Only two of seven CASE-supported candidates won. The council that will be seated in January includes four new office holders, three incumbents and two who were not up for reelection.

District 1 West Seattle:
Lisa Herbold (incumbent)

District 2 Southeast Seattle
Tammy Morales

District 3 Capital Hill
Kshama Sawant (incumbent)

District 4 Northeast Seattle
Alex Pedersen (CASE-supported)

District 5 North Seattle
Deborah Juarez (incumbent; CASE-supported)

District 6 Wallingford-Ballard
Dan Strauss

District 7 Queen Anne-Downtown
Andrew Lewis

At-Large
Teresa Mosqueda (not up this cycle)

At-Large
Lorena Gonzalez (not up this cycle)

Moving forward

The coming months will be difficult for the Seattle business community. The progressive council is likely to view the November vote as a mandate to pursue a range of programs including: the Seattle Green New Deal, new tenant protections, taxes on high earners, and new version of the head tax.

Looking ahead to 2021, Mayor Jenny Durkan, City Attorney Pete Holmes and the two at-large council seats held by Lorena Gonzalez and Teresa Mosqueda will be up for reelection. Mayor Durkan has not signaled her intent to seek reelection. Both Gonzalez and Mosqueda have political ambitions and could mount challenges.

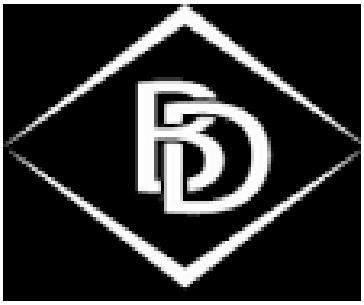
The City Attorney's race could provide an underlying change theme for the entire election. Much of the repeat property crime and drug activity the city is experiencing has been blamed, in part, on the reluctance/failure of the City Attorney to prosecute these crimes. It's a theme that carries over to the council and mayor.

Beyond Seattle

Outside of Seattle during this election cycle, voters grappled with the pains of a rapidly growing region. In many suburban cities, candidates running on a reasoned approach to growth lost to candidates wanting to deflect growth. This cycle also saw seasoned incumbents lose to younger, newly minted candidates and an ongoing move to the left in the suburban cities. Even so, the suburbs remain reasonable and pro-prosperity.

Issues & Impacts

Black Diamond: City council expands to seven members



In August, the Black Diamond City Council voted to expand from five members to seven members.

State law required the two new councilmembers be appointed to their positions by the current councilmembers, rather than being elected by popular vote. Then, if they choose to do so, the two new councilmembers will have to stand for re-election in 2021 in order to remain on the Council.

Only two citizens applied for the two new positions by the September 3rd deadline set by the Council. On September 19th Patrick Nelson was appointed to the newly created Position #6, and Steven Paige was appointed to the newly created Position #7. The current councilmembers interviewed the two applicants separately, and then went into executive session after each interview before returning to formally approve Nelson and Paige as new City Council members.

A potential third candidate – Kristiana de Leon - chose to run for a position on the Council rather than seeking appointment to one of the newly created positions. She said, "I decided to run for office instead of trying to get appointed, because I believe the citizens of Black Diamond are best represented by a candidate who takes the time to talk one-on-one with residents to learn about their concerns."

De Leon defeated Councilman Chris Wisnoski in this year's November General election. Wisnoski was appointed to the Council in March of 2018 after Councilmember Pat Pepper was tossed from office by voters when she lost a Recall Election by the largest margin in the modern history of King County. The King County Superior Court determined Pepper and two other councilmembers had repeatedly violated the state's Open Public Meetings Act.

Any city with at least 2,500 residents is allowed by state law to have seven councilmembers. However, cities with 5,000 or more residents are required to do so. Last year, using the 2010 census as a baseline, the state's Office of Financial Management estimated the population inside the city of Black Diamond was 4,500 residents.

The proposal to expand the Council to seven members was brought forward by retiring Councilmember Janie Edelman who noted that with the build-out of the 10 Trails MPD the city's population will soon exceed 5,000 people. Although she did not have a vote in the decision to expand the Council, Mayor Carol Benson supported expanding the Council to seven members "sooner rather than later" in order to give new councilmembers the opportunity to better understand the city's budget, which is scheduled to be approved before the end of the year.

Kent: City Council eliminates all 3-member council committees

Decades ago, the Kent City Council created various three-member committees, including the Economic and Community Development Committee, the Operations Committee, the Parks Committee, the Public Safety Committee, and the Public Works Committee.

On September 17, 2019, the Kent City Council voted to eliminate the various three-member council committees, and in their place created a committee called the Committee of the Whole, which is made up of the full membership of the Kent City Council.

SKCR supports strong schools, endorses school districts' ballot measures.

SKCR has a strong history of supporting strong school districts. Good schools are the first thing homebuyers ask us about. Good schools are essential for preserving the value of family homes. They are critical for economic vitality and job creation. Schools unify and define communities. But, most important, quality schools are crucial to the future of our students.

SKCR has endorsed the following February 2020 ballot measures and urges voters to vote "Yes" on the following measures:

- Kent School District's Maintenance & Operations-Educational Programs levy
- Bellevue School District's Capital Construction Bond
- Tahoma School District's Educational Programs and Operations levy and Technology levy.

Issues & Impacts

REALTORS® Political Action Committee (RPAC)

NEW! An Easy, Quick Way to Protect Your Business - REALTOR® PAC ONLINE

Introducing a new secure, online REALTOR® PAC (RPAC) investment site making it easier than ever for busy REALTORS® to protect their business. We can't all go to Washington DC, the state Capital or even our City Halls while government leaders are making decisions that affect our industry; but while we are busy, REALTOR® PAC can fight for us and for our clients. Please make an investment of $50, $100 or $500 to ensure that when government acts there is no harm to real estate, no new taxes and no added, unnecessary complications to the real estate transaction.

https://www.warealtor.org/government-affairs-main/rpac

As of the end of September (most recent information available), SKCR has raised $309,000 for the REALTOR® PAC.

Please invest in REALTOR® PAC at warealtor.org/government-affairs-main/rpac.

Issues & Impacts is a quarterly publication produced by Seattle King County REALTORS® to inform members about current issues and successes within your Governmental Affairs Department. We will release our next publication in April 2020. The 2019 VP of Governmental & Public Affairs is Lynn Sanborn lynn@windermere.com, VP-elect of Governmental & Public Affairs is Dahni Malgarini-Logar dahnim@dahnim.com, staff director is David Crowell dcrowell@nwrealtor.com, and our local legislative housing advocates are Sam Pace sam@sampace.com and Randy Bannecker randy@bannecker.com. Please call David at 425.974.1011 ext. 704 if there are any local legislative issues that need our attention.