

Issues & Impacts

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

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BUILDABLE LANDS REVIEW:

The Future Supply of Homes in King County - Will there be enough?



REALTORS® know there isn't enough housing in King County for everyone who needs a place to live. Buyers face dim prospects of finding a listing available to purchase, and when they do it's often unaffordable for many buyers. Renters face similar challenges, especially if they are looking for a place to live that is close to where they work.

A stable - and more affordable - ownership real estate market requires a four to six-

month supply of homes and condominiums to be available for purchase. But King County has never had more than an eight-week supply since at least 2011. In July of this year, there was barely a 39-day supply of houses and condominiums combined. The countywide median "SOLD" price was \$670,000, up 7.2% from a year ago. If condos are not included in the calculation, the countywide sales price for single-family homes in July was \$727,500.



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Washington State's Goal of making housing affordable "*to all economic segments of the population of this state*" was embodied in our state's law at RCW 36.70A.020(4) when the Growth Management Act (GMA) was passed by the Legislature in 1990. However, in the three-decades that have followed, our state has consistently moved in the opposite direction - with housing becoming less and less affordable each and every year - except temporarily during the most extreme of economic recessions. Even the fact that King County has been the Nation's "ground zero" in the global pandemic has not been enough to constrain housing demand and improve affordability.



Our collective statewide failure to ensure there is enough housing for everyone who needs a place to live continues to produce brutal consequences for the individuals who are our family members, friends, neighbors, co-workers and community members: Too often it forces economically vulnerable households to choose between food, housing and medical care. It destroys quality of life for families when workers must commute long distances to secure housing they can afford. It divests our first responders and essential workers from the communities they serve. It compromises jobs for workers, and the survival of businesses when wages that are high enough for workers to afford housing also destroy a firm's ability to be competitive

in regional, national and international markets. And, because housing is the single most important mechanism for creating inter-generational wealth, Washington's failed policies that limit physical and financial access to ownership housing have the effect of perpetuating the denial of economic opportunity for historically disadvantaged households.

So, going forward, will there be enough housing in King County so that everyone who needs a roof over their head will have the option to live in the county where they work, at prices they can afford?

The Association of REALTORS® is continuing aggressive advocacy efforts - both locally and in Olympia - to have elected officials make the important policy changes that are necessary to fix the problem. Despite the REALTORS®' un-relenting, all-out efforts, the near-term prospects of success remain uncertain, at best.

When the repeated failure to achieve the GMA's Housing Goal became painfully obvious, legislators amended the Growth Management Act to add a new section (Section 215, known commonly as the "Buildable Lands Review Process") which was intended to be a mechanism to fix the problem.

The Legislature made that change to state law 23 year ago, in 1997.

In all that time, it hasn't worked. That's due in-part to the fact that the reviews are tied to growth forecasts which remain seriously disconnected from the reality on-the-ground regarding the number of working families moving into the state to take a new job.

Nevertheless, the “Buildable Lands” reviews continue to be one of the very few “housing supply mandates” the state has placed on local governments. It requires them to consider the capacity of urban areas to accommodate future population growth that will result from new babies being born, and also (historically inaccurate) forecasts regarding anticipated employment-related in-migration of new workers moving their families to Washington.

As part of the Buildable Lands Review Process, local governments - including King County and each of its 39 cities - are required to review the amount of new housing that can be accommodated (via new construction and demolition/redevelopment) under the limitations contained in each jurisdiction’s local Comprehensive Plan and Zoning Code, as well as the Development Regulations which control their implementation. In addition, local governments are also required to assess whether or not the “built-out densities” that are being achieved on-the-ground are consistent with the Comprehensive Plans, Zoning Designations, and Development Regulations. Stated another way, if parcels of land are planned and zoned for eight single-family housing units per acre, do the new subdivisions actually achieve that density? Or, if land downtown is zoned for 60 units of multi-family housing per acre, do the apartment and condominium towers being built actually achieve 60 units per acre?

King County and its cities are currently engaged in the statutorily-mandated “Buildable Lands Review Process” that was intended to improve housing affordability. But historically, the effort has failed to reverse the continuing long-term erosion of access to housing that is affordable.

While the current review that is underway includes some small changes to the

evaluation of the amount of remaining capacity for housing, the effort remains mostly just another repeat of a largely irrelevant “desktop exercise” that is seriously disconnected from the actual market demand for housing in King County.



In 2024, King County and each of its 39 cities will be required to do a “Major Update” of their respective comprehensive plans. So, this year - in anticipation of that 2024 Major Update - local governments are required to prepare for the Update by reviewing the amount of buildable lands capacity remaining in the Comprehensive Plan and Zoning Code for the construction of homes

The amount of housing capacity contained in those documents - which must be adopted by each city council - provide an “upper limit” on the amount of new housing that will be allowed. Builders are not allowed to build any new homes, condos or apartments unless the comprehensive plan and zoning code make it legal to do so in a specific location.

Even if we don’t have enough housing for everyone who needs a place to live, it’s illegal for builders to break ground for new housing if that housing is not specifically and expressly allowed at a specific location in the comprehensive plan and zoning code. There is no safety-valve, no work-around, no flexibility. So, the continuing failure to have enough buildable capacity in our comprehensive plans and zoning to meet the “actual market demand for housing” is disastrous.



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While the *growth forecasts* that Olympia provides to Washington's counties remain central to the process of reviewing each city's remaining housing capacity, in 2017 the Legislature tweaked the law to include requirements for cities to also consider land owner preferences, because some property owners may not want to develop/redevelop their property during the current planning period. In addition, the Legislature also required jurisdictions to identify and analyze growth and development densities that could necessitate cities adopting regulatory reforms to provide more legal capacity for housing. In this regard, King County's Countywide Planning Policies - which guide and govern each city's comprehensive plan - do not permit expansion of the "urban growth area" (aka the "Urban Growth Boundary (UGB)") to increase land capacity for housing and employment growth, and instead require accommodating such growth inside the UGB by making more efficient use of urban land, consistent with current plans and targets. The King County Council, Seattle City Council and the Sound Cities Association each have the capacity to veto any effort to change King County's Urban Growth Boundary, likely making any effort to do so a non-starter.

The work of the 40 local governments in King County (to review the remaining capacity for housing) is being coordinated by an organization known as the King County Growth Management Planning Council (GMPC), which is comprised of the King County government, the city of Seattle government, and the local cities that comprise the Sound Cities Association (previously known as the "Suburban Cities Association").

The GMPC's Inter-Jurisdictional Staff Team (IJT) has proposed to move the completion date for the buildable lands review (which has

been renamed the "Urban Growth Capacity Study") from June to November of this year. Even so, cities appear to be moving forward with the work. For example, Kent's Chief Administrative Officer, Derek Matheson, reported to the City Council in mid-August that the City's Long-Range Planning Staff had completed its report to the GMPC.

According to the IJT, the delay in completing the required reviews "will allow staff to address new requirements imposed by the state legislature, and make use of Department of Commerce funding." The Department of Commerce provided King County with \$734,000 to help defray the cost of city planners completing the work. According to the IJT, "city and county staff members are halfway through the data collection in support of the project" which must be submitted to the Department of Commerce by the middle of 2021.

The King County Council is tentatively scheduled to ratify the GMPC's report on the results of the buildable lands review for the Urban Growth Capacity Study during the first quarter of 2021. Ratification by the cities is anticipated during the second quarter of next year.

So, going forward, will there be enough housing in King County for everyone who needs a place to live?

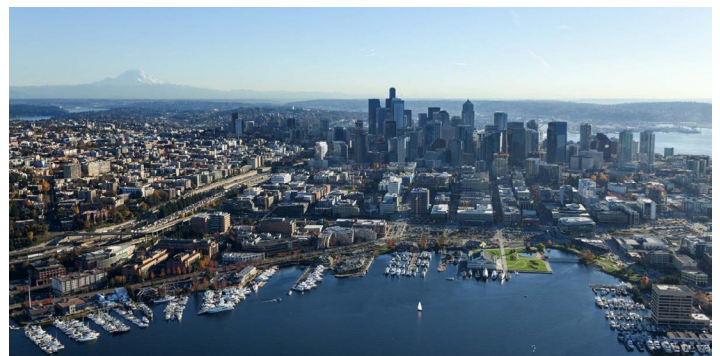


Photo Courtesy of [Puget Sound Regional Council](#)

Probably not, unless the Legislature imposes significant new mandates on the County and its cities and requires local land use planning for housing to be responsive - in a timely and sustained manner - to the actual market demand for housing...market demand that results both from workers moving here with their families for a new employment opportunity, as well as the demand for housing that meets the needs of the newly-formed and growing families that are already here.

It's unfortunate news for buyers and renters that underscores the importance of the advocacy efforts of the REALTORS® Associations that are working to have elected officials fix the problem. But absent a sustained economic collapse, it's likely encouraging news for many sellers, unless they are planning to both sell and repurchase in the same geographic area.

For investors, like sellers, Washington's continuation of its decades-long failure to meet the state's adopted Housing Goal may offer the prospect of opportunities to achieve market appreciation that (at least in moderately well-managed jurisdictions) may significantly out-pace many other urban and metropolitan areas of the nation.



HOUSING INVENTORY AND REGULATIONS

Kenmore Works on Amendments to ADU Regulations - Added Flexibility

The Kenmore Planning Commission and Council have been working on an updated package of amendments regulating assessor dwelling units. Overall, the direction of the legislation is positive - offering greater flexibility for homeowners to establish attached or detached ADUs on their property.

The majority of the council is reticent to allow more than one ADU per lot.

A final vote on the ADU package is expected in September.



Photo Courtesy of Nunes Group Real Estate



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Redmond Launches Housing Action Plan - Meeting Future Housing Demand

In 2019, Redmond received a grant to develop a Housing Action Plan. The Plan will include an analysis of the existing housing stock, current and projected housing needs, and opportunities for housing. The City will develop strategies to meet current and future housing needs.

Seattle King County REALTORS® participated in a housing survey and looks forward to reviewing and commenting on the draft plan, expected to be released in the Fall.



Shoreline Extends Permit Timelines

SKCR was successful in urging the Shoreline City Council to allow additional extensions of application deadlines and permits, recognizing that COVID-19 is unlikely to come to a swift conclusion. Distancing protocols may be required into the Fall and Winter. Everything is taking longer - permit review and processing, financing, construction, etc. Additional time will relieve pressure on both city staff and project applicants. The extension also will reduce the risk and cost of applicants resubmitting an expired application.

An additional 180-day extension will be available for applicants to pick up permits that are ready to issue and an additional 90-day extension will be available for applicants to respond to requests for additional information and review comment letters.



SeaTac: New Affordable Housing Development

The city of SeaTac has approved the construction, and ground has been broken, for one of, if not the largest, new affordable housing complexes in King County in the past few years. Approximately 365 units will be built on city-owned land that was sold to CAP Acquisitions (a.k.a. The Inland Group).

The new affordable housing units will be part of a 585-unit, mixed-use, transit-oriented development project called "Polaris at SeaTac" that will include:

- Convenient access to the to the Tukwila International Boulevard Light Rail Station
- 27,000 sq. ft. of new commercial space
- Underground parking, and
- Three residential towers:
 - Two of the residential towers - which will contain the 365 affordable units - will be workforce housing that is affordable for individuals and families earning less than 60% of area median income.
 - The remaining 220 housing units will be market rate housing in the third tower, which will be named "Adara at SeaTac."

The project is located on 4.5 acres. At the time the property was sold it consisted of a vacant 65,000 square foot commercial building, and a structured parking garage. Approval of the development was not without controversy because it required displaced tenants in the commercial building to vacate the premises prior to closing, which they finally did last year.

The desire inside City Hall for this project in Downtown SeaTac has been percolating for more than a decade, and will help to bring to fruition the City's vision to create high-density residential hubs around light rail stations in the City.

"We hear time and time again from both employers and residents that affordable workforce housing is desperately needed in the city," said Mayor Erin Sitterley. "This complex will allow hundreds of our hard-working families to live near light rail and access jobs and amenities"

According to city officials, the City and CAP Acquisitions previously agreed to an \$11 million price tag for the sale of the property. However, a resolution passed on May 12th allows for the 4.5 acre site to be sold as two separate parcels.

The affordable housing development, Polaris at SeaTac, would be built first, and CAP Acquisitions will pay the City \$6.93 million for this portion of the property. The remaining \$4.07 million of the purchase price is due to the City upon closing of the second portion of the property for construction of the third tower development, Adara at SeaTac.



Polaris at SeaTac

CAP Acquisitions says it was forced to split the property after the COVID-19 Pandemic hit and the financial lending markets for large-scale multi-family residential properties all but dried up.

Until the closure of the Adara parcel, the City will also receive an additional payment of one thousand dollar-a-month, plus 12.84% leasehold excise tax, as a payment for the ground lease. CAP Acquisitions will use the Adara portion of the property as a staging area for the construction of the two Polaris Towers. The Polaris project is expected to be completed in approximately two years.

Kirkland Sustainability Plan includes Point of Sale Energy Labeling

The city of Kirkland has released its draft Sustainability Master Plan.



While that the plan emphasizes collaboration and incentives which we applaud, one policy would establish residential energy performance benchmarking and disclosure, mandated at the time of sale.

Policy BI-3.4:

Work with the K4C to implement energy performance ratings for all homes at time of sale so that prospective buyers can make informed decisions about energy costs and carbon emissions.

We have conveyed to the Council that efforts to improve energy efficiency in existing homes should not complicate or add costs to real estate transactions. Further, we expressed concern that energy labeling on homes for sale will stigmatize older housing stock, with less energy efficient systems than newer homes.

We believe energy performance information is easily accessible to prospective buyers. Legally required seller disclosures about the home, coupled with information provided to the buyer by their home inspector, offer a wealth of energy performance information



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including relating to glazing, insulation and heating and air conditioning mechanical systems.

The premise of the proposed policy is that buyers will choose the house with the better score. The experience of most members suggests buyers overwhelmingly choose a home based on its location, price, and how it fits the needs of the family.

We strongly believe the energy performance audit and associated score are best conducted outside of the stress of the transaction. We believe that the goals can be achieved --- in far greater numbers and with far greater speed --- through a program offered to all residences on a voluntary basis.

Redmond's Draft Environmental Sustainability Action Plan includes Point of Sale Weatherization Improvements

The city of Redmond has released its draft Environmental Sustainability Action Plan. Among a wide range of measures, the plan includes residential weatherization improvements, mandated at the point of sale.



Redmond
WASHINGTON

SKCR has requested that the City Council pursue improvements to energy efficiency in existing homes in a manner that does not complicate or add costs to home sellers. We stated our concern that weatherization mandates could prove expensive and delay the transaction. In addition, our members find that many sellers do not have the luxury of time if selling for financial reasons or job relocation.

That said, we believe weatherization is an important home improvement. Information and programs are easily accessible to homeowners. We believe PSE and the city could enhance weatherization incentives to all homeowners outside of the real estate transaction and on a voluntary basis.

Seattle Restarts Work on Green New Deal - Fuel Switching



In 2019, the Seattle City Council passed a resolution articulating a Green New Deal for Seattle. It is a package 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, meaning those that cause shifts in climate patterns, including carbon dioxide, black carbon, methane, nitrogen oxides, and fluorinated gases.

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.

SKCR, in collaboration with PSE, Labor, the Building Owners and Managers Association and others succeeded in delaying the prohibition on gas service in new construction, 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 for heating and cooking.

It appears the natural gas prohibition is back on track and may be debated in committee this fall. We will continue to work with our coalition partners to reject the proposal.

TAXATION

Seattle Passes New Payroll Tax

In early July, the Seattle City Council passed a Payroll Tax. The tax is expected raise \$214 million per year and replaces the Head Tax of 2018, which the Council passed and later eliminated due to public opposition.

The new tax called Jump Start Seattle, passed by a vote of 7-2. SKCR-endorsed Councilmember Juarez voted no and urged a public vote; SKCR-endorsed Councilmember Pedersen voted no and raised concerns about lost jobs.

Debora Juarez

DISTRICT 5 NORTH SEATTLE



Here are the key points of the package voted out of committee:

Businesses with Seattle payrolls below the \$7 million threshold, and federal and state government entities, grocery stores, and businesses preempted from taxation by cities under federal or Washington State laws are exempt.

The tax will be imposed beginning January 1, 2021.

- Businesses with payrolls ranging from \$7m to \$99.9 million:
 - Compensation of \$150,000 to \$399,000 will be taxed at a rate of 0.7%
 - Compensation of \$400,000 and above will be taxed at a rate of 1.7%
- Businesses with payrolls ranging from \$100m to \$999.9 million:
 - Compensation of \$150,000 to \$399,000 will be taxed at a rate of 0.7%

- Compensation of \$400,000 and above will be taxed at a rate of 1.9%
- Businesses with payrolls greater than \$1 billion:
 - Compensation of \$150,000 to \$399,000 will be taxed at a rate of 1.4%
 - Compensation of \$400,000 and above will be taxed at a rate of 2.4%

The spending plan outlined by the Council does not apply the new revenue from the tax to the expected \$250-300 million budget gap for current operations. Instead, the Council will spend the revenue on new programs, drawing down emergency reserves to initiate the program in this calendar year.

Seattle King County REALTORS® worked with coalition of small and large businesses within the city to oppose the tax, reasoning that it is irresponsible to impose a tax on jobs when the city and nation are in the throes of an economic downturn caused by the pandemic.



Some likely payers of the tax are exploring a legal challenge.



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Kent: Mayor Won't Ask For Tax Increase (Right Now) To Hire More Police



On August 17th, Kent Mayor Dana Ralph announced she will not send "Proposition A" to the Kent City Council, or to the voters, in the November 2020 General Election. If the City Council had approved placing "Proposition A" on the ballot, voters would have been given the opportunity to decide whether or not to increase city property taxes in order to add 30 new police officers and support staff to the Kent Police Department. The decision does not prohibit the Mayor from asking voters for the tax increase at some future election.

According to Mayor Ralph, "Despite polling indicating voter support for the Levy, I can't in good faith ask Kent residents to raise their taxes during this challenging time. Families are struggling with basic things like utility bills; asking them to pay more during a global health pandemic isn't what's best for our most vulnerable."

"Instead," said Mayor Ralph, "I will continue to work with the community to find ways to improve our public safety, sense of community and fulfill the city's responsibilities within the budget we already have."

The Mayor's press release did not mention the fact that even though property taxes paid by Kent property owners will not increase (for now) because the Mayor backed-away from her plans to place "Proposition A" on the ballot, a new increase in the city's B&O taxes will take effect on January 1, 2021. The new revenue from that B&O tax increase has already been anticipated in the city budget. The city's increase in B&O taxes that will take effect on January 1st is just one of four new B&O tax increases that was approved by the Kent City Council the last time it voted on whether or not to raise taxes on Kent businesses.



Mayor Dana Ralph

REAL ESTATE SIGNAGE

Kirkland Planning Commission Expected to Take up Sign Code in 2021

A major update to the Kirkland sign code has been on the city's to-do list for at least two years. SKCR worked successfully to secure interim allowances for off-premise A-boards. We will be prepared to engage with the city on all real estate signage matters once they initiate the sign code update next year.



HOMELESSNESS AND TENANT PROTECTIONS

King County: Homeless Count Reveals 5% Increase from 2019

On Friday, January 24th - prior to the current COVID-19 pandemic - local volunteers conducted a countywide “one-night, point-in-time” count of homeless people in King County. Volunteers doing the counting ventured into a cold rainy night and spread-out looking for homeless people (both sheltered, and unsheltered), who were in emergency shelters, transitional housing, abandoned buildings, sanctioned encampments, vehicles, doorways, tents and under bridges.

The annual count - which was coordinated this year for the first time by Vega Nguyen, a women and minority owned survey research firm that was based in Bellingham (but has since closed its doors) - is required by HUD, which considers the survey results when making federal funding decisions.



In early July of this year, King County Executive Dow Constantine and Seattle Mayor Jenny Durkin released the survey results:

- King County’s homeless population that night was 11,751 people.
- The number of homeless in King County had increased 5% since the night when a similar count was conducted in 2019.
- 53% of the homeless people the volunteers encountered were sheltered, and 47% were without shelter.

- The percentage of “sheltered” vs. “unsheltered” was consistent with prior years, even though the total number of homeless people in King County had increased by 5%.
- Previously, the survey results included data on the number of homeless people found in specific cities. Officials no longer include a breakdown of the data by city, and instead focus on larger aggregated regions of the County. In that regard:
 - The largest percentage of the homeless who were counted (71%) were in Seattle.
 - The second largest concentration (16%) was south of Seattle in the vicinity of Auburn, Algona, Burien, Des Moines, Federal Way, Kent, Milton, Normandy Park, Pacific, Renton, SeaTac, Tukwila and Vashon Island.
 - The third largest concentration (9%) was on the eastside in the vicinity of Bellevue, Issaquah, Mercer Island and Kirkland.
- Compared to their presence in the general population, racial minorities comprised a disproportionately larger percentage of the homeless individuals encountered during the survey:
 - Native American/Alaska Native people comprise 1% of the population in King County, but were 15% of the homelessness individuals encountered by volunteer counters.
 - Black/African Americans comprise 7% of the county population, but 25% of the homeless people who were counted during the survey; and
 - Hispanic/Latin individuals comprise 10% of the population, but were 15% of the individuals counted in the survey.
- The full report is available at <https://regionalhomelessnesssystem.org/>.



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In addition to the annual Point-In-Time Homeless Count, local officials and human service providers also utilize a “Homeless Management Information System (HMIS)” to inform their efforts to address homelessness in King County. It’s an online database that enables organizations to collect data on the services they provide to people experiencing homelessness, and people who are at risk of being homeless.

According to King County Executive Dow Constantine, HMIS monthly data show “an increase in households connecting with homeless services over the past year. Despite increased system capacity and efficiency, however, the rate at which people are becoming homeless continues to outpace the ability to house them within existing resources.” The COVID pandemic has not helped.

King County, the city of Seattle, and the Sound Cities Association (known previously as the Suburban Cities Association) are collaborating on the creation and implementation of a new countywide organization to address homelessness. Called the “King County Regional Homeless Authority” it is intended to provide a new governance system to improve regional coordination of resources and action plans to address homelessness countywide, and will be charged with overseeing the annual point-in-time homeless count beginning next year.



King County



City of Seattle



SOUND CITIES ASSOCIATION

35 Cities. A Million People. One Voice.

Cities and the Homeless:

New Limits on City Rules For Encampments Hosted By Religious Organizations

In 2009 the State Supreme Court ruled that when a city imposes a moratorium on temporary homeless encampments that are hosted by a religious organization, the moratorium constitutes a substantial burden on the beliefs and practices of the religious organization, thereby rendering such a moratorium unconstitutional.

The Supreme Court handed-down its ruling in the case of *Woodinville vs. North Shore United Church of Christ*. Subsequently the legislature passed new rules on the subject that apply to non-code cities, code cities, and counties.

Then, last year, the Legislature adopted House Bill 1754 to encourage cities and religious organizations to work together collaboratively to help the religious organizations fulfill their mission to serve the homeless. The change in state law took effect on June 11th and places new limits on local government regulations regarding temporary outdoor encampments, indoor overnight shelters, temporary small house on-site facilities, and safe parking for the homeless living in vehicles.



Northshore UCC Homeless Encampment
Photo Courtesy of [Northshore UCC](#)

In response, cities have been amending their ordinances to bring city codes into compliance with the new state requirements, except where provisions in a city's code qualify for one of three safe harbor protections in the legislation. Among the changes House Bill 1754 made to state law are provisions that:

- Allow a city to reduce or waive permit fees for a religious organization hosting the homeless.
- Prohibit a city from limiting the cumulative amount of time a religious organization hosts an outdoor encampment to fewer than six months during any calendar year. In addition, a city is not allowed to limit the duration of an encampment to less than four consecutive months. However, a city can require a separation of up to three months between outdoor encampments at a particular site.
- Prohibit a city from limiting the number of simultaneous outdoor encampments operating during a given period of time, except when one is within 1,000 feet of another.
- Limit the ability of cities to regulate vehicle resident safe parking programs.
- Provide detailed guidance on the types of fire-safety measures a city may require.
- Prohibit any religious organization (that receives government funds which are used to support the organization's homeless outreach) from refusing to host any resident because of age, sex, marital status, sexual orientation, race, creed, color, national origin, veteran or military status, or disability (including use of a service animal).
- Set forth the criteria by which a city may regulate small houses on property owned or controlled by religious organizations.
- Allow a municipality to require religious organizations and managing agencies to enter into a memorandum of understanding "to protect the public health and safety of both the residents of

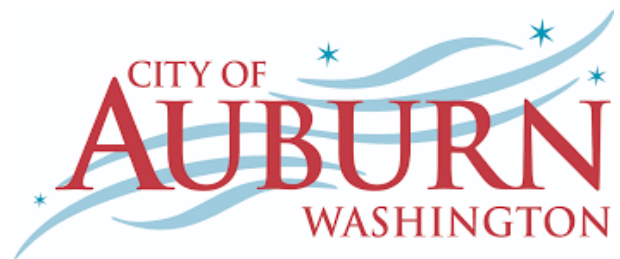
the particular hosting and the residents of the municipality."

- Cities may require sex offender checks of all adult residents and guests, but "the host religious organization retains the authority to allow such offenders to remain on the property."

The new rules do not apply to a city's regulations or agreements if the following three "safe harbor" requirements are met:

1. The city's regulations or agreements existed prior to the June 11, 2020, effective date of ESHB 1754;
2. The city's regulations or agreements do not categorically prohibit the hosting of the homeless by religious organizations; and
3. The city's regulations and agreements have not been found by a court to violate 42 U.S.C. §2000cc (the Religious Land Use and Institutionalized Persons Act).

Auburn: New Rules Enforce Camping Prohibitions, While Helping Homeless



In late July the Auburn City Council began considering a draft ordinance to modify the city's administrative code based on a joint recommendation from the City Attorney's office, Public Works, Risk Management, and the Parks, Arts & Recreation Departments. The City's action was prompted by a 9th Circuit federal court decision in *Martin vs. City of Boise* that is applicable to all of Washington state.



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Auburn has public lands which the City has targeted for a variety of uses such as roads, parks, water, stormwater management, parking, municipal buildings, flood protection etc. The public purposes identified by the city typically do not include camping, and prior to the Boise case the city enforced a ban on camping. The results were uneven because within a few days of the city removing an illegal encampment, the campers would be discovered camping on a different piece of city property, often in a different park

According to Sound Publishing media reports quoting city officials, homeless people camping and sheltering overnight on public property created problems for the city that included waste and garbage removal, environmental degradation, fire and safety issues and blocking of walkways, as well as “creative provision of electricity.”

But the 9th Circuit’s decision makes it clear that cities may not criminalize homelessness by making it illegal for a homeless person to sleep on public property, unless there are alternatives - such as shelter beds - available at that precise time, and at no cost to the person in need.

So, the city set about to bring its codes into compliance with the new rules handed down by the federal courts, while at the same time making a concerted effort to meet the needs of homeless people in the city who face challenges involving not only the need to have a place to sleep, but also human services to help them address mental illness, drug and alcohol addiction, and unemployment.

In order to minimize collateral challenges resulting from homeless individuals camping in parks - while simultaneously avoiding a violation of the constitutional rights of homeless people - city staff crafted a proposed ordinance for the City Council’s

consideration that is intended to do the following:

- Confirm that camping is not allowed in city parks (except in narrow circumstances involving events that are under the direction of city staff) and prohibit camping on all city-owned property, including parks, well sites, etc.
- Prohibit legal access to the parks between dusk and dawn, and provide trespass notifications to anyone violating the prohibition.
- Provide stronger protections for businesses from individuals who obstruct businesses during normal business hours, and also make clear (and enforce) a prohibition on blocking sidewalks; and
- Limit the ability of police to remove persons from sleeping on public property unless there are alternative options immediately available - such as shelter beds - and the police take the individuals to the alternative location where they can receive the support and services free of charge.

Auburn: City Council’s New “Just Cause” Eviction Ordinance Limits Landlords

The Auburn City Council has approved a “Just Cause” Eviction Ordinance intended to protect tenants from being forced to leave their rental home without reasonable justification. The cities of Seattle, Federal Way and Burien have also adopted similar ordinances. Auburn’s new “Just Cause” ordinance limiting evictions is based mostly on the ordinance adopted recently by the city of Burien.



Photo courtesy of [ApplyConnect](#)

Under the new legal requirements approved by the Auburn City Council in ordinance #6780:

- Evictions for any reason other than those approved in the ordinance are unlawful once the ordinance takes effect.
- The ordinance requires 120-day notice when rent will increase by more than 5%. State law requires a 60-day notice for any residential rent increase.

According to city staff, the reason for requiring more than a 60-day notice in connection with larger rent increases “is because the tenant may not be able to afford the increase which means they will need to find a new housing option. And finding a new housing option will require the tenant to secure funds associated with the cost of moving, security deposit for the new home, and first and last month’s rent. When combined with the potential other costs associated with setting up new utility accounts, changing school districts, finding new child care, etc. it is difficult for the tenant to be prepared to move to a new home with a 60-day notification.”

- The ordinance is intended to fill a perceived void that exists as a result of the city’s inability to enforce the Washington State Landlord-Tenant Act. Typically, lawsuits to enforce the provisions of the state’s Landlord-Tenant Act are only allowed to be filed by either the landlord or the tenant who agreed to the rental agreement, or lease, for the property.

The Housing Development Consortium in King County has been pushing hard for all cities to adopt a “Just Cause” ordinance that limits the ability of landlords to evict tenants.

In a transmittal memorandum to members of the City Council, city staff noted that the ordinance:

- Is a policy action that is consistent with the recommendations contained in the Regional Affordable Housing Task Force’s 5-Year Action Plan,
- Is a policy action that is consistent with the Joint Recommendations Committee for the 2020 State Legislative Agenda; Auburn is a member,
- Is a policy action that is consistent with the South King Housing and Homelessness Partners (SKHHP),
- Helps to address concerns that the Governor’s temporary moratorium on residential tenant evictions will expire, leaving tenants at risk.



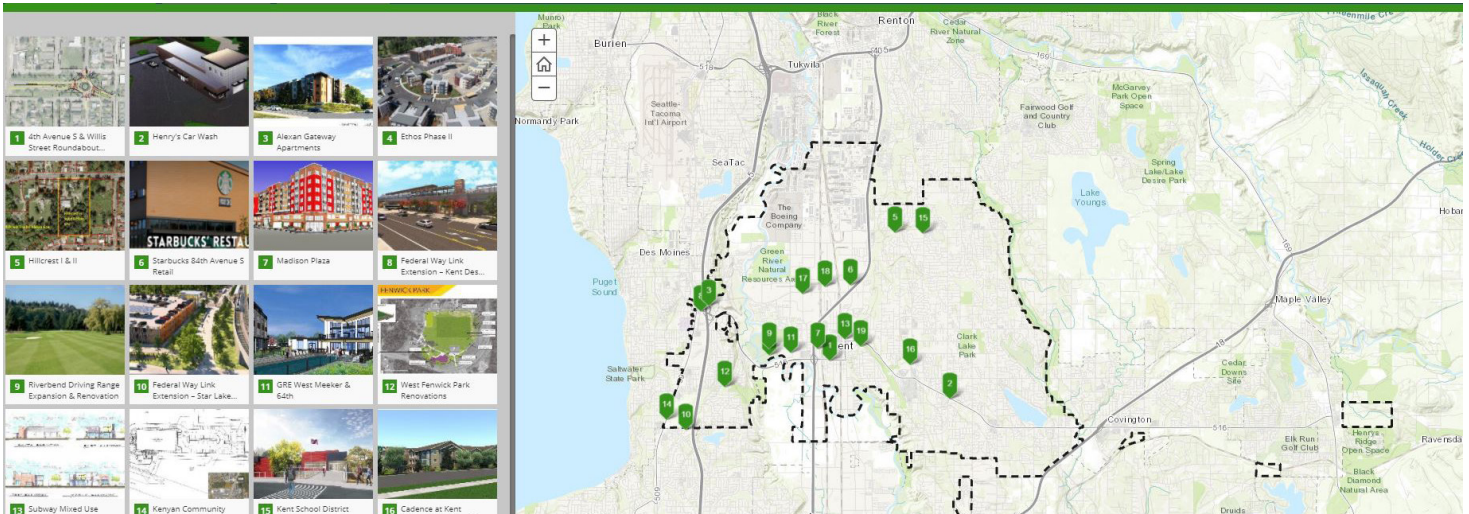
Photo Courtesy of All County - Denver Metro Property Management



Issues & Impacts

IN OTHER NEWS

Kent: City Launches New Interactive BuildKentWA Website



The city of Kent's Department of Economic and Community Development has launched a new interactive website called BuildKentWA.

If REALTORS® or their clients/customers are curious about what's being built in the vicinity of a home or business...in a particular neighborhood...or around the city, they may be able to find helpful information at BuildKentWA.com.

BUILD KENTWA.com

This web-based, GIS-enabled platform provides the public with details on a variety of new private and public development projects in the city, as well as major public infrastructure projects, even those as large as Sound Transit's LINK Light Rail Station on the city's West Hill. The information on the new website is divided into three categories: Coming Soon, Under Construction, and there is also a Public Notice section for projects for which notice to the public is required.

Projects that are featured on the website under the categories of Coming Soon and Under Construction are selected based on their economic impact, and level of visibility to the residents at large.



National Flood Insurance Program:

Cities Updating Code and Flood Prevention Plans to Satisfy FEMA



Cities in King County and throughout Washington are updating their municipal codes to bring them into compliance with requirements published by FEMA in connection with the National Flood Insurance Program (NFIP).



If cities fail to do so, property owners in the city (whose property is located in a floodplain) will not be eligible to obtain flood insurance. “Flood insurance” is different from “homeowner’s insurance” because it only covers the kinds of flood-related damages to property that are uniformly excluded from coverage in a typical homeowner’s insurance policy.

Failure of the cities to make the required changes to their codes would also mean buyers of such flood plain properties could not get a mortgage loan to purchase the property because lenders require a “flood cert” to determine if the property is in a floodplain, and if the property is covered by flood insurance, before they will give a buyer a loan.

In addition, current homeowners of flood plain properties would lose their flood insurance coverage, causing any existing mortgage to suddenly fall into default for failing to maintain flood insurance. The key changes being adopted by cities involve:

1. Removing old federal floodplain maps and replacing them with new floodplain maps that have been issued by the federal government, and
2. Checking to make sure that city code prohibits new construction projects in floodplains, and floodways, consistent with federal requirements for NFIP coverage.

The National Flood Insurance Program (NFIP) administered by the United States Federal Emergency Management Agency (FEMA) is the primary source for insurance against flood damage for residential properties that are located in floodplains.

A floodplain is an area subject to flooding, most commonly because it consists of low-lying ground that is adjacent to a river, and comprised mainly of river sediment.

Although construction of new homes in floodplains has been severely limited in recent years, in earlier times homes and other structures were often built in floodplains. When rivers reached flood stage, the structures were often damaged by the flooding. That not only created problems for occupants of the homes, it also impaired the collateral of mortgage lenders who relied on homes being habitable in order to provide security against the mortgage loss.

It also created new insurance claims to be paid by the National Flood Insurance Program, which is working to prevent additional construction in floodplains in order to minimize the number, and amount, of claims the NFIP pays out to cover flood damage.



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Editor's Note: Flood risk data available on realtor.com®

On August 26, realtor.com® launched new flood risk data features which will be available on most for-sale properties on realtor.com®. Many of you have already heard about this from our outreach last month during our initial testing phase.

What are these features?

At an individual property level, realtor.com® will offer insights into Federal Emergency Management Agency (FEMA)-categorized flood zones and a new Flood Factor™ feature, which is the result of a realtor.com® data integration with the First Street Foundation, a nonprofit research and technology group. The First Street Foundation Flood Model includes data for more than 142 million homes and properties across the U.S.

Flood Factor™ includes a flood risk score ranging from 1 (minimal risk) to 10 (extreme risk) and an indication of whether that risk is increasing, decreasing, or constant over the next 30 years.



In addition, a graph shows the cumulative risk of flooding for a property over the typical 30-year period of ownership, along with the FEMA-categorized flood zone for the property, and whether flood insurance is required. Flood insurance options, when available, are provided to realtor.com® users.

Here are some distinguishing features for both:

Flood Factor™

- Provides accurate, property-level flood risk information
- Incorporates current and future environmental changes
- Maps multiple flood zones and risk levels
- Includes more flood sources such as heavy rainfall
- Nationwide coverage and updated quarterly
- Assesses historic flood patterns and projects future risk

FEMA

- Provides detailed, community-wide flood risk information
- Maps the 100-year flood zone and indicates whether a property is “in or out” of this zone
- Does not provide information specific to individual properties
- Based on site specific, engineering studies but limited to two risks (riverine and storm surge)
- Limited geographic coverage and not updated frequently
- Assesses historic flood patterns
- Used by community regulators, banks and lenders



FEMA

Flood Factor™ data augments FEMA's maps, so real estate professionals can use both tools on realtor.com® to:

- Help reduce the number of clients who buy high-risk properties by surprise or list properties before mitigating the risk
- Help reduce flood-related surprises at the closing table by helping their buyer and seller clients perform due diligence and increase confidence in real estate markets particularly where FEMA does not currently map



Agents and brokers can use the feature to provide additional context, guidance and insights to their buyer and seller clients with regard to flood conditions and potential flood risk for properties and communities across the country.

King County: Back to the Drawing Board on Regulations for Rural Snoqualmie Valley Wineries, Breweries, Distilleries and Tasting Rooms



Earlier this year the Central Puget Sound Growth Management Hearings Board invalidated a King County ordinance (#19-030) that the County Council had approved last year. The ordinance amended the County's development regulations governing wineries, breweries, distilleries, remote tasting rooms and similar adult beverage land-uses. The ordinance also established demonstration project locations, and approval criteria, together with business licensing regulations, and modified penalties for violators.



Photo courtesy of Kelsey Knight, Unsplash and Savor Snoqualmie Valley



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In response to the Hearings Board invalidating the County's ordinance, on August 18th the County Council approved an emergency moratorium that will prevent such land use activities from being approved or permitted during the next six months. In addition, the County Council will hold a public hearing on the emergency moratorium within 60 days.



tightening regulations “on a pre-existing use category in pre-existing zone designations,” and told the Hearings Board the ordinance “did not authorize any site-specific or project level actions.”

The Hearings Board was not persuaded, noting that “the problem with the County’s argument is that it is describing regulations that are, in some instances, more restrictive than the development that has actually occurred in contravention of current code,” but at the same time “it ignores the likely additional development authorized by the ordinance, including approval of existing code violations.”

In 2018, the County was aware of 54 wineries, breweries, and distilleries in unincorporated King County. Of those, only four appeared to have been legally permitted.

To address the situation, as well as the way the businesses were “interfacing with local communities,” the County turned to a study it had paid for in 2016 regarding the Sammamish Valley Wine and Beverage Industry.

Subsequently, in 2019, the County adopted ordinance #19-030 to regulate the rural industry, but the ordinance was challenged by the Friends of Snoqualmie Valley (FOSV), and others, in a lawsuit filed with the Central Puget Sound Growth Management Hearings Board. Among other things, the environmental organization’s legal appeal challenged the timeliness and sufficiency of the County’s analysis of the potential environmental impacts resulting from the ordinance.

The County maintained that the likelihood of environmental impacts was low, and characterized the effect of the ordinance as

The Board continued, “The ordinance itself identifies the objectives of supporting the adult beverage industry and fostering related tourism. It simply does not follow that removal of regulatory bans on previously illegal activities will not result in an expansion of these newly-allowable uses...”

Further, according to the Hearings Board’s order, “Because State Law and Washington’s Administrative Code(*) required the County to prepare its threshold determination of environmental impacts at the earliest point in the planning and decision-making process when the principal features of the ordinance and its environmental impacts can reasonably be identified, and the County failed to do so, the ordinance is invalid.” The Board ruled that King County’s State Environmental Policy Act (SEPA) Checklist “failed to provide a detailed statement of reasonably foreseeable and cumulative environmental impacts that may result” from the ordinance.

*RCW 43.21C.030 and WAC 197-11-055(2)

As a result, on August 18th, the County Council approved the new emergency ordinance to impose a six-month moratorium intended to broadly prohibit the establishment of new or expanded wineries, breweries, distilleries and remote tasting rooms in rural areas, and requiring

the County Executive to determine how the County should go forward to comply with the decision of the Hearings Board. State Law requires the County to hold a public hearing within 60 days (after the fact) on the emergency ordinance that enacted the six-month moratorium.

LEGAL

COUNTY EXECUTIVE: Cities Win Legal Challenge to New Inquest Rules

The New Inquest Rules issued by King County Executive Dow Constantine on June 15th were immediately challenged in court. A Coalition of South King County Mayors from Auburn, Federal Way, Kent and Renton filed suit against the County challenging the new rules as unconstitutional, claiming the County Executive overstepped his authority regarding the rules for investigating officer-involved deaths. On August 21st, Superior Court Judge Julie Spector issued a decision agreeing with the South King County Mayors.

The new inquest rules issued by the County Executive were also challenged in court by the King County Sheriff's Office, which claimed it was exempt from the inquest rules under the County Charter (a charter is similar to a local government constitution). The Executive's new inquest rules were also challenged in court by the city of Seattle, and individual law enforcement officers. Three families of deceased individuals also filed litigation.

An inquest is an administrative, fact-finding inquiry into the manner, facts, and circumstances of a death. In King County, inquests are typically limited to situations involving a police officer's use of deadly physical force in the line of duty.



In King County, the function of holding inquests is vested with the King County Executive, and he has directed that there be an inquest into the causes and circumstances of any death that involved a member of law enforcement in the course of their duties.

By executive order, inquests are managed by the Department of Executive Services and conducted by Inquest Administrators.

Executive Constantine has said the purpose of an inquest is to shed light, in an open public forum, on the facts surrounding a death at the hands of law enforcement, and that "a further purpose is to promote public understanding of these events in our community."

Once litigation challenging the County Executive's new inquest rules was filed with the court, inquests were placed on hold pending the court decision which was handed down on August 21st.

In the meantime, pending inquests involving the Auburn, Federal Way and Kent police departments were also on hold. Those three matters are among six inquest proceedings that have been held in limbo during the last two years.



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A hearing regarding the lawsuit took place on Friday, July 17th before King County Superior Court Judge Spector, via Zoom. The Superior Court's August 21st decision might be appealed, in which case the litigation would be considered by the state Court of Appeals, unless the Washington State Supreme Court chooses to take control of litigation. In the event there are no appeals (or once any appeals are concluded), inquests will be able take place again, according to county officials.

The lawsuit challenged most of the provisions in the Executive Order, including whether or not the disciplinary history of officers should be allowed, whether expert testimony should be limited and whether retired judges should be placed in charge of county inquests. However, some of the additional major sticking points that were reportedly considerations in prompting the Southend Mayors to file the lawsuit include:

- Whether inquests should be handled by a coroner, or instead by retired judges;
- The inability of a police officer who testifies to be represented by legal counsel (although there appeared to have been some movement by Dow Constantine on this issue);
- Allowing the adequacy of city policies to be investigated by each inquest jury, and
- Allowing the adequacy of police training to be added to the scope of inquest inquiries.

Cities were concerned about the elimination of stability and predictability in connection with policing policies and training, which could be reevaluated by a different inquest panel/jury - consisting of four to six different people - every time there is an inquest under the new rules that were adopted by King County Executive Dow Constantine before being invalidated by the court on August 21st.



*King County Superior Court Judge Julie Spector
(AP Photo/Ted S. Warren)*

Judge Spector not only concluded that the rules issued by the County Executive were “invalid because they are in excess of the authority granted to the Executive by Charter and County Code,” she also found the new inquest rules were “invalid because they violate the appearance of fairness doctrine” not only in connection with the process by which the new rules were adopted, but also with regard to the substance of the new inquest rules, including matters regarding discovery, subpoenas, evidence regarding compliance with police training and policy, limitations on the opportunity for chief law enforcement officers to testify about policy and training, and introduction of certain expert testimony.

PROTECTING YOUR BUSINESS

Elections in 2020

Laws govern the way in which you conduct your business and affect your bottom line. Laws are made by elected officials. This year elections will be conducted for the state legislature and U.S. Congress. The primary election was on August 4, and the general election is on November 3.

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 conducted candidate endorsement interviews with candidates running for office.

This year, Seattle King County REALTORS® will work to protect and enhance your business by reviewing voting records of incumbents, conducting candidate endorsement interviews, and supporting candidates for the state legislature and congress who share our REALTOR® values. Our general election voting guide will be mailed in October to all Northwest MLS members who have a preferred mailing address in King County!

King County Council Sends Charter Amendments to Voters

The King County Council will send seven county charter amendments to the November 3 ballot for a public vote.

Among the amendments are two dealing with the King County Sheriff's Office. One would allow the County Council to establish the duties of the Sheriff's Office. Another would make the King County Sheriff an appointed rather than elected position.

Additional amendments:

- Specify that inquests should be performed for deaths in the county's jails and provide the family of the deceased with legal representation during the inquest process.
- Include subpoena power for the King County Office of Law Enforcement Oversight to aid in its investigations.
- Remove the Charter impediment to the sale of county-owned property below market value for affordable housing purposes, in accordance with recent amendments to state law.
- Update the Charter to change references to "citizen" to "resident" or "public" depending on the circumstances. This change would address several references in the Charter to the concept of citizenship being necessary to access certain aspects of county government.
- Prohibit discrimination in county employment and contracting based on someone's status as a family caregiver, military status, or status as a veteran who was honorably discharged or discharged solely as a result of sexual orientation or gender identity.



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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 D.C., 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.

At the end of June 2020 (most recent information available), SKCR has raised \$251,171 for the REALTOR® PAC. Please invest in REALTOR® PAC at:

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

Thank you to our RPAC Major Investors! A major investor is a member who has invested at least \$1,000 to RPAC this year. Our major RPAC investors can be seen here:

www.nwrealtor.com/advocacy/rpac/rpac-major-investors/

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 December 2020.

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Our **VP-elect of Governmental & Public Affairs** is **Eddie Chang** - eddie.chang@rsir.com

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Our **Local Legislative Housing Advocates** are **Sam Pace** - sam@sampace.com

& **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.