Representative 2018 Advocacy and Legislative Successes

Advocacy Focused on Increasing Housing Supply

While increased housing supply is at the core of most every issue SKCR addresses, some specific successes are highlighted below.

Black Diamond

Seattle King County REALTORS® have been advocating since 2009 for the construction of 6,000 new housing units in two master planned developments (MPDs) in the city of Black Diamond. This year those efforts culminated in the sale of the first new home to the McFadden family who became the first residents in the Ten Trails Community.

SKCR's advocacy efforts included support for code amendments to facilitate the MPDs, and also for two development agreements the city entered into with Oakpointe development (formerly Yarrow Bay, now Black Diamond Partners). For more than a decade the city of Black Diamond has been "Ground Zero" for a small cadre of NIMBYs who opposed the projects, including three residents who ran successful campaigns to garner seats on the City Council where they worked to kill the projects. The REALTORS® made public records requests that produced documents indicating the three councilmembers were violating the state's Open Public Meetings Act. Oakpointe filed suit and King County Superior Court Judge Janet Helson ruled without the necessity of a trial that the three councilmembers who formed a working majority on the City Council had repeatedly violated state law.

Two of the councilmembers - Erika Morgan and Brian Weber - chose not to run for reelection. With support from REALTORS®, voters in Black Diamond elected replacements whose campaigns stressed a willingness to follow the law and honor the city's contracts. The third councilmember, Pat Pepper, remained defiant and refused to resign. So, with support from the Association of REALTORS® and strong grass-roots opposition to the mayhem the trio had created, voters in Black Diamond tossed Pepper from office in a recall effort that was initially approved by the King County Prosecutor, and later by the state Supreme Court. Pepper lost the recall election by the largest margin of votes in the modern history of King County.

According to Black Diamond Partners, the Ten Trails community was designed using *Best Practices* that integrate neighborhoods, a Town Center (featuring 190,000 square feet of shopping, food, and entertainment), different home styles by top builders for every lifestyle - including Connor Homes, Ichijo, Lennar and Rudd - environmentally friendly design, community activities and amenities. Amenities such as parks and trails feature a variety of parks that are integrated throughout the community, including two large community parks that feature play equipment, a screen for summer movie night, plenty of grassy space for relaxing and miles of trails. High-tech infrastructure for personal, home and office work will be available in every home and free Wi-Fi will be available throughout the community.

The protracted political battles and litigation surrounding the Black Diamond MPDs have largely distracted attention from the fact that (in addition to the 6,000+ new housing units that will be constructed in the MPDs), there are numerous other home construction projects in the pipeline. Those homes, condos and apartments (and concomitant commercial space) will help to make a positive contribution to efforts to ensure that everyone who needs a place to live has access to housing.

Covington

For the last three years, SKCR has supported approval of the Master Planned Development (MPD) known as Lakepointe that will add 1,500 new housing units and more than 1,000,000 sq.ft. of commercial space in the northeast corner of the city of Covington.

SKCR supported the annexations, code amendments and development agreements required to make the project possible. In addition, SKCR participated with the Masterbuilders and the developer in early regulatory reform meetings designed to enhance the city's reputation as a destination of choice for new private investments.

This year, Oakpointe Communities and Presidio Residential Capital received unanimous approval from the Covington City Council to develop the Lakepointe Urban Village, a 214-acre Master Planned Community near the former Hawk property adjacent to highway 18. In addition to more than 1500 new homes, the new community will include a 20-acre lake that was previously a gravel mine, open space and trails, and an 850,000 sq. ft. Entertainment and Lifestyle Center that is being designed by International award-winning KTGY Architecture + Planning. The 214-acre master planned mixed-use community will also include a 130-key hotel. The value of the entire project will exceed $670 million.

Auburn's "Net Site" Area Calculations Will Allow More Housing

With support from SKCR, the city of Auburn moved forward this year to change the way it calculates the number of homes that will be allowed on a parcel of property. The changes - which will allow more housing to be built, and which will make more efficient use of available land - involve a city decision to modify Auburn's development regulations so that the number of housing units which can be built will be based upon the property's "Gross Site Area," rather than the "Net Site Area." It's an approach REALTORS® have long supported.

According to the city's ordinance that was adopted to enact the change, members of the City Council have an "ongoing interest in simplifying land-use decision-making, lowering City and customer costs, and taking advantage of enhanced efficiencies" where those objectives can be met without sacrificing the quality of decision-making or opportunities for public input.

The city acknowledged that it's prior practice of using a "Net Site Area" formula resulted in confusion and inconsistencies that placed a heavy burden on property owners and staff when attempting to determine how many homes could be built. In addition, it resulted in lower density subdivisions than what the City anticipated would be achieved with build-out under Auburn's long-range plans and land use designations.

The changes approved by the City Council will also authorize an administrative waiver of the requirement to meet minimum density when a lot is encumbered by critical areas, conservation easements, utility easements or other encumbrances that make it impractical to meet the minimum density requirement. The change is important because if the minimum density cannot be met, and no waiver is available, absolutely nothing would get built. The waiver provision will allow housing consistent with the carrying capacity of the land, instead of effectively prohibiting any housing at all from being built.

According to the City, the minimum density requirements have made smaller lots difficult to subdivide because the properties' size, configuration, utility layout, existing development and surrounding development "tend to preclude any subdivision at all." The City Council has recognized that "short plat" developments (9 or fewer homes) "require greater flexibility in order to encourage small lot infill subdivisions." So, the City changes will also eliminate the minimum density requirements for "short subdivisions" of 9 or fewer lots, as well as eliminate the requirement that all subdivisions adhere to a "Minimum Average Lot Area." The minimum lot size in the R-5 zone is being reduced from 6,000 sq. ft. to 4,500 sq. ft.

Allowing an administrative exemption to the City's minimum density requirements will allow more efficient use of the land, and facilitate greater density, when developing parcels that are

heavily encumbered with critical areas, BPA power line easements, or conservation easements that would otherwise limit any development.

The city of Auburn - which has been at the forefront of King County local governments in pursuing intelligent, reality-based, common sense approaches to responsible development that will meet the need for housing while protecting important community values - recognized and acknowledged that the prior approach "has had little benefit in the final design and function of new residential communities…and has been a constraining factor when designing new communities" within areas of the City zoned R-5.

Kent's "Urban Separators"

This year the city of Kent finally acknowledged the time has come to reassess one of the last vestiges of anti-growth NIMBYism in the city. The "highest in the nation" increase is in King County prices - and similar increases in Kent rents - provided the tipping point needed to support requests for changes to zoning that would allow increased densities on properties the city previously identified in the city's comprehensive plan as "Urban Separators."

As a result, city staff have presented an array of alternatives that the City's *Land Use and Planning Board* has begun to consider. The Land Use and Planning Board serves the function of a planning commission for the city of Kent.

The issue of "Urban Separator" land use designations is especially important for NWMLS brokers and REALTORS®, and for the supply of housing in the community, because of the considerable amount of land "reserved" in "Urban Separator" designations.

These "Urban Separator" lands have the absolute lowest zoning of any land in officially designated urban areas of King County. Such "1-unit per acre zoning" has been justified by reference to high-sounding platitudes that in reality were mostly rationalizations for one of the last remaining officially-sanctioned efforts to placate NIMBYs in urban areas that under the state's Growth Management Act (GMA) were intended to be characterized by compact, efficient, urban densities. According to the City, these areas are intended to create *"visual definition within and between urban areas, buffer rural or resource lands, preserve opportunities for recreation, and connect wildlife and critical area corridors."* The designation effectively limits development on these parcels to one residential unit per acre, a density somewhere between suburban and rural, but definitely not "urban" as envisioned under The Growth Management Act.

Based on an internal review that examined the inventory, characteristics and regulatory consistency for "Urban Separator" properties, city staff developed five preliminary alternatives for changes to the City code which the staff says are not exhaustive or mutually exclusive.

Issaquah Ends 2-year Moratorium

In 2012, to protect Issaquah's existing neighborhoods and natural environment, the City adopted the Central Issaquah Plan (CIP) to guide the long-term evolution of the community's existing commercial core into an urban center.

In September 2016, the Issaquah City Council enacted a moratorium on certain types of development to address a range of issues related to design and affordability. SKCR encouraged the city's public outreach and development of policies and code regulations that address each issue. As that work has been completed and adopted by the City Council, the moratorium has ended. This will enable the creation of greatly needed new housing supply.

PSRC Failures in Transportation and Housing

The Puget Sound Regional Council (PSRC) has become an increasing source of concern as the region struggles with a systemic crisis in housing and transportation congestion. Last year, SKCR was forced to take the PSRC to task for its efforts to constrain small cities from facilitating the construction of additional housing. The PSRC threatened to refuse to certify the comprehensive plans of small cities (thereby making them in eligible for federal funding for local transportation projects) unless they down-zoned, phased growth or refused to provide infrastructure in order to reduce the construction of new housing.

This year, the PSRC began a process to update its strategic plan called "Vision 2050." The region continues to be in desperate need of housing supply that will be in balance with the recent job growth our region has experienced. The PSRC has been active and well-intentioned but has mostly failed in the two critically important areas of Transportation and Housing. For that reason, in March of this year we took an aggressive approach in suggesting that it is time for PSRC to change its approach rather than merely extending its current vision for an additional 10 years. To do otherwise would be akin to trying to expand a home that is perched atop a crumbling foundation.

It's not easy to press the "reset" button and start over, but there is enormous, sustained and continuing evidence to indicate that is precisely what is needed because of the importance of the region's growing challenges in the areas of Transportation and Housing. Thus far, the PSRC has largely turned a deaf ear to our efforts, but recent changes in the elected official leadership at PSRC give us some hope that the organization may be willing to reconsider its Seattle-centric transportation strategy that is failing the four-county region, especially since the new leaders serve in jurisdictions not only outside of Seattle, but outside of King County.

Advocacy Focused on Rural King County

Septic System Owner Bill of Rights

Seattle King County REALTORS® played an important role in fighting back against a tax on legislation to provide a Septic System Owners a Bill of Rights. Rural King County property owners with homes served by on-site sewage systems (septic tanks) have been under attack for the last two years by the King County Department of Health, and by Public Health Seattle-King County. The bureaucrats want more money for their programs and have attempted to impute environmental harm to septic tanks that simply is not factually accurate.

For the last two years, REALTORS® have played an important role in fighting back against these agencies by:

- Opposing the so-called "turd tax" on existing septic systems
- Disclosing the failure of bureaucrats to include appointed stakeholders – including local REALTOR® representatives - in the vetting of new tax proposals targeting septic systems
- Opposing expensive new requirements which mandated the creation of new "as-built" drawings" for existing septic system. The requirements were based on unfounded claims by officials that micro-fiche viewers were not available to examine existing "as-built" drawings (a false claim that senior officials were forced to quickly admit was unfounded, and which many septic tank owners believed was created out-of-whole-cloth as retribution for thousands of rural residents mobilizing to kill the "turd tax"), and
- Opposing attempts by the agencies to require easements & third-party inspections of private properties, even though the County lacks the legal authority to conduct such inspections itself without violating the Constitution.

So, this year, the Citizens Alliance for Property Rights (CAPR) - with support from Seattle King County REALTORS® and COOM WA - asked legislators to reign-in the agencies' continuing assault on septic system owners. In a bipartisan effort to do so, two members of the state legislature from Covington, Democratic House Majority Leader Pat Sullivan and Republican Rep. Mark Hargrove, co-sponsored legislation (HB 2420) that would: (1) Prohibit the agencies from requiring easements, (2) Prohibit requirements for third-party inspections, and (3) Allow property owners to repair septic systems rather than require the systems be replaced, so long as the repairs will restore the system to good working order.

Everything was going well until state agencies obtained an amendment to the legislation that would have had the effect of requiring virtually all on-site septic systems to be subject to close monitoring based upon the unsubstantiated assumption that such systems leach pollutants into aquifers. In response to those shenanigans, REALTORS® assisted The Citizens Alliance by providing

information that helped convince interested legislators the agency claims were false, and that the bill should be approved. The bill passed the House of Representatives by a vote of 96 to 1 and was in the Senate's Rules Committee awaiting floor action at the time the legislature adjourned.

The short session prevented the bill's passage, but at this point legislators have accurate information that makes it easy to understand the common-sense reasons this very modest Bill of Rights for Septic System Owners should be approved by the legislature in 2019.

Public Health Seattle - King County Now Allows "Point of Use" Treatment for Arsenic

Public Health Seattle-King County now allows "Point of Use" treatment for water with arsenic levels between 10 and 50 parts per billion (ppb). The change allows new procedures for "treatment" to reduce arsenic levels in private drinking water wells located in King County, but only if the wells have arsenic levels equal to, or below, 50 parts per billion (ppb).

Prior to these new rules, for an individual well to obtain approval as a possible source of water, arsenic levels needed to be below 10 ppb. Treatment is required for wells with arsenic levels between 10 and 50 ppb. According to the County, the well must not be flushed prior to sampling for water quality.

Arsenic is a naturally occurring contaminant in some ground water in King County, most frequently found in bed rock aquifers in the central part of the county.

The "Hirst Fix" - Important For Buying, Selling or Building a Home Served By A Well

SKCR played an important supportive role to assist Washington REALTORS® in obtaining passage of legislation known commonly as *The "Hirst Fix"* that is very important for any transactions involving a home that gets its possible water supply from a well. Most of those homes in Washington state are located in rural areas, including the rural areas of King County.

A 2016 decision by the Washington Supreme Court in the 'Hirst case" (which originated in Bellingham) said local governments could no-longer rely on Department of Ecology permit decisions and regulations to determine whether a new home connecting to a well for its water supply would harm "in-stream flows" for fish and other environmental values.

Instead, each local government would have to make its own determination for every new home that needed to connect to a well. Many local governments throughout Washington were unable comply, so they refused to issue (or severely restricted) permits for construction of new homes

served by a well. Some counties even went so far as to impose a formal moratorium prohibiting the construction of any new building that would have to connect to a private well for its water supply.

Advocacy Focused on K-12 Educational Quality

Schools are important, not only because they help to define and build strong communities, but also because strong schools support higher resale home values. Seattle King County REALTORS® have the strongest and most active program of reviewing, and if justified supporting, local school levy and bond measures of any professional, trade or industry association in King County.

The Association has a formal process (including both a detailed questionnaire and in-person presentations) for considering endorsing school funding measures, and provides not only formal endorsements, but also in-kind editorial support and GOTV (Get Out The Vote) activities to encourage REALTORS® to vote. This year SKCR endorsed and supported the following K-12 ballot measures:

Capital Projects Levies

Unlike the ample state "McCleary" funding provided for K-12 basic education, the legislature and Office of the Superintendent of Public Instruction (OSPI) provide only limited financial support for K-12 education capital projects. As a result, even after McCleary, capital project levies and bonds will remain important for local school districts.

This year SKCR successfully supported *Capital Projects Levies* in the Bellevue (approved by 51.83%), Issaquah (approved by 54.15%), Shoreline (approved by 69.09%), Lake Washington (approved by 55.24%) and North Shore (approved by 60.83%) School Districts. *School Bus Levies* were approved in Bellevue (54.89%), Issaquah (57.31%)

Educational Programs and Operation Levies

Educational Programs and Operation Levies were approved by the school district voters in the Mercer Island (71.69%), Bellevue (53.73%), Lake Washington (54.56%) and North Shore (60.93%) School Districts.

The Kent District's *Educational Programs and Operation Levy* received support from 50.53% of the voters, while the *Levy for Capital Improvements* received 50.02% support. In early returns, both measures had been failing, but a late surge of favorable ballots helped lift both measures over the 50% threshold required for approval of levies (unlike bonds which require 60% voter approval).

Tahoma: Success When Second Attempt Has REALTORS® Support

The vaunted and highly acclaimed Tahoma School District, which serves the greater Maple Valley area, fared less well in in its first trip to the ballot. None of the District's three ballot propositions were approved by voters: Tahoma's *Educational Programs and Operations Levy* only received 46.62% approval, *its Capital Projects Levy* did slightly better at 46.9% but also fell short, and even the District's *School Bus/Transportation Levy* received only 48.67% approval from voters.

In response, the School District and Citizens Committee sought-out the support of REALTORS® and re-tooled the measure for a second attempt to gain voter approval. SKCR supported the second attempt with an endorsement, editorial support, and individual members of NWMLS and SKCR provided full page, four-color, newspaper advertising and support on social media, including videos. The District's Replacement *Educational Programs and Operations* Levy passed with 63.8% of the vote.

Advocacy Focused on Opportunities for Homeowners to Have Opportunities to Generate Income from Their Homes

Tukwila Improves Opportunities for Accessory Dwelling Units (ADUs)

The city of Tukwila has allowed Accessory Dwelling Units (ADUs) since 1995, but this year - with support from SKCR - the city amended its development code to allow one ADU per parcel, allow ADUs of up to 800 sq.ft. and up to 20 feet in height, except for ADUs built over a garage which may be up to 25 feet tall.

In addition, the city reduced the lot area requirements for all attached and detached ADU's, changed the parking requirements, limited ADU rental periods to 30 days or more in order to ensure more housing supply for city residents, and provided a one-year amnesty program for registration of illegal ADUs (including allowing owners of illegal ADUs to request flexibility from the city in connection with certain standards that could not be met by the pre-existing unit.)

Issaquah Eases Process for Accessory Dwelling Units

The Issaquah City Council has taken important steps to lower the barriers to adding an Accessory Dwelling Unit (ADU) to a home in the city.

There have been limited permits for ADUs in Issaquah (41 from 2001 thru 2015, or 7 per 1000 single family homes). By comparison, Mercer Island has 32 ADUs per 1000 single family homes.

The revised code includes the following:

- Clarifies that ADUs are exempt from impact fees
- Removes the Land Use Permit requirement, which reduces cost and review times
- Removes size limit on ADUs as long as they do not increase building envelop
- Directs staff to make administrative amendments to remove the requirement for an additional meter and prepare a step-by-step process sheet for applicants.

Short-term Rentals

The rapid growth in the use of short-term rentals has been substantial. Platforms like VRBO/HomeAway and Airbnb have made short-term rentals easy for the landlord and the consumer. The growth of short-term rentals has not escaped the notice of the cities. Cities seek to regulate the activity to limit its impact and prevent people from effectively operating hotels in neighborhoods, reducing the number of units available on the long-term rental market. Additionally, cities seek added tax revenue.

SKCR's position is that Short-term Rentals offer homeowners an opportunity to generate income from their home by renting out a room, a basement or the entire home. The rental income can play an important role in *making ends meet* in this expensive housing market. For homeowners on fixed incomes, the added revenue can help guard against being taxed out of one's home.

For visitors, short-term rentals offer an affordable alternative to hotels and motels. Visitors may be here to see family, explore career opportunities or search for permanent housing. City merchants benefit from their spending. The City will benefit from license fees and lodging taxes.

Kirkland Short-Term Rental Legislation

Kirkland has passed an ordinance that applies only to single family residences. (Multifamily residences are currently governed by the rule of the individual complex.)

Kirkland residents who first came to the Council in May expressed frustrations over disruptions in their neighborhoods caused by a continuous stream of guests renting rooms, partying late into the night and parking vehicles in undesignated spaces.

"We heard from a number of residents who felt their residential neighborhoods were being negatively impacted by "mini-hotels" next door," said Mayor Amy Walen. "This legislation is intended to strike a balance between keeping the character of our single-family neighborhoods and providing ways for homeowners to use this new economic model to afford to live in Kirkland."

The ordinance lays out six requirements for owners seeking a business license for operating a short-term rental in the city of Kirkland including:

- The property owner, or an authorized agent, must occupy the property as a primary residence at least 245 days per year. Additionally, a property manager living within 15 miles of the residence must identify those days when neither the owner nor an authorized agent was occupying the property. Short-term rentals are not allowed in residences in Kirkland in situations where an owner (or authorized agent) does not occupy the residence as his or her primary residence at least 245 days per year.
- The property owner must have a business license from the State of Washington.
- The property owner (or authorized agent) must complete and submit a business license application for the city of Kirkland and pay licensing fees.
- As part of the application, a declaration must also be filled out and signed. If the applicant is not the owner, it must still be signed by the owner, as owners retain specified responsibilities in all events.
- Lodging taxes for short-term rentals must be paid to the State of Washington, and those payments are ultimately the responsibility of the property owner.
- If an owner (or a registered agent) occupies the residence for at least 245 days per year as his or her primary residence, short-term rentals of up to 120 days are permitted. In this situation, whenever the owner (or authorized agent) is not occupying the residence, a property manager (located within 15 miles) must be identified and continuously available to the City and all renters.

Seattle Short-Term Rental Legislation

The Seattle City Council passed short-term rental regulations that limit the number of short-term rental units to two per operator. Short-term rental operators will be required to obtain a license and pay a tax of $14 per night for an entire home, and $8 per night for a part of a home (e.g., a spare bedroom).

There are some exceptions for short-term rentals legally operated before September 2017, allowing operations of multiple short-term rentals under a single owner.

The legislation as passed by council could be read to infer that *rent backs* from a new homeowner to the seller are covered by the definition of short-term rental. While *rent backs* were not intended to be included by the council, SKCR and the NWMLS are working to establish a clarification in the rulemaking process to ensure that there is no confusion relating to the disposition of *rent backs.*

Advocacy Focused on City Taxes & Fees Imposed on Brokers

Renton Repeals "Head Tax" Penalty on Businesses Creating Jobs

Even as some Seattle City Councilmembers appeared enamored with the prospect of enacting a new "Head Tax" that penalizes companies for creating jobs as firms expand, the city of Renton moved in the opposite direction and repealed its existing Head Tax.

The city's Head Tax required a business to pay additional taxes for every new worker who works 1,200 or more hours per year. REALTORS® have long referred to Renton's Head Tax as a "penalty tax" on businesses that expand and create new jobs.

Head Taxes are of concern to SKCR for two reasons: First, is the impact on the bottom line finances of real estate firms when brokerages add workers. Second, even though in our recent scorching-hot market the number of "all-cash" buyers has been higher than normal, most real estate transactions still require the buyer to obtain a mortgage in order to close, and lenders want to see that the buyer/borrower either has a good job, or has retired from the job, that will allow homebuyers to make the mortgage payments. So, any local government regulation that creates a disincentive for creating jobs also operates indirectly as a barrier to potential additional real estate transactions for brokers.

Seattle Repeals Employee Hours Tax

SKCR joined with the larger business community in rapidly mounting a battle to avert the imposition of a tax on jobs within the city. Working in collaboration with our partners, we were successful.

After the Seattle City Council unanimously passed a tax of $275 per full time equivalent employee for companies with gross receipts of $20 million or more (which would raise an estimated $48 million per year for housing and services), a coalition of businesses worked to gather signatures to have a referendum on the November 2018 ballot to overturn the tax. Some 17,600 signatures were needed for the June 14th deadline to have the signatures certified and a referendum placed on this year's general election ballot. Seattle King County REALTORS® contributed $2,500 from its local issues fund to support the "No Tax on Jobs" campaign and sent petitions with a cover letter to all Seattle member offices.

On or by June 11, the "No Tax on Jobs" campaign had gathered nearly 46,000 signatures, well over the 17,600 signatures needed to place a referendum on the ballot. And, apparently, some polling was done which showed strong opposition from Seattle residents on the Employee Hours Tax. Notably, seven of the nine city council positions are up for election next year, and an

Education Levy will be on the Seattle ballot later this year. On June 12th, by a vote of 7 to 2, the Seattle Council repealed the head tax. Subsequently, the two lawsuits were filed alleging the city Council violated the state's Open Public Meetings Act in connection with agreeing to repeal the measure. Those lawsuits are still pending.

Seattle Income Tax on Appeal

SKCR is collaborating with the Rental Housing Association of Washington on a *Friend of the Court* (amicus) brief in opposition to the tax, and is keeping in close communication with former Washington State Attorney General Rob McKenna, who is serving as the plaintiff's lead attorney.

Last year, the Seattle City Council unanimously approved an income tax by applying a 2.25% tax on total income above $250,000 for individuals, and above $500,000 for married couples filing their taxes jointly. The income tax applies to Seattle residents. It would include "unearned" income, which means adding equity gains from home sales to total income.

Last November, King County Superior Court Judge John Ruhl struck down Seattle's income tax ordinance. The legal issues that Judge Ruhl needed to decide started with the statutory challenge – that the ordinance violated RCW 36.65.030, which prohibits a tax on net income. He rejected the claim that the tax is really an excise tax on the privilege of living in Seattle, bolstered by the fact that the ordinance itself says that it's an income tax. He also affirmed that the measure passed by the City Council is indeed a tax on net income. Judge Ruhl also found that the law prohibiting a tax on net income was not improperly passed by the Legislature and is thus valid. Finally, Ruhl concluded that the city needed explicit authority to impose a tax, and that none existed.

Having concluded that state law prohibits a tax on net income, that the city's income tax ordinance is indeed a tax on net income, and that no other authority existed for the city to impose such a tax, he granted plaintiffs' motion for summary judgment and struck down the income tax ordinance.

Having found that it violated state law, Ruhl chose not to look at the larger constitutional question of whether income is a form of property. There is binding state Supreme Court precedent holding that income is a form of property, which both the Superior Court and the Court of Appeals would likely be required to follow if they took up the issue. However, unlike lower courts, the Supreme Court could overrule its own prior decision.

The city of Seattle is appealing Judge Ruhl's decision to the State Supreme Court. The Court may choose to hear the case or send it to the State Court of Appeals. Action is expected in the fourth quarter of 2018. For the city to prevail on appeal, it likely must jump two hurdles:

First, it needs to convince the appellate courts that its income tax doesn't violate the state law prohibiting a tax on "net income" – or alternately that the law was illegally constructed and should be tossed out.

Second, if the city wins that claim it must then convince the court that previous state Supreme Court rulings (that income is property) were wrongly decided and should be overturned, so that its income tax doesn't run afoul of the state constitution's requirement that property be taxed uniformly. The issue may be important because the city's income tax excludes an individual's first $250,000 of earnings.

Kirkland Business License Fees

Earlier this year, some brokers in the city of Kirkland received a letter stating that a Kirkland business license was required, and license fees were owed, for the prior three years.

SKCR found that the City was consolidating its business license tax system with the state of Washington and in the transition, the state identified brokers with UBI numbers, independent of the firm at which they hang their real estate licenses.

While these brokers were covered by their firm's Kirkland business license, it was not immediately clear to the city of Kirkland that they were real estate brokers working under the umbrella license of their firm.

SKCR worked with the City to confirm that:

(1) real estate brokers may operate under the Kirkland business license of their firm; and

(2) a broker with their own UBI number and Washington State business license may operate under the Kirkland business license of their firm.

Advocacy Focused on Sign Code Legislation

Medina Sign Code

After more than a year of review in the Planning Commission and City Council, Medina passed its revised sign code with a unanimous vote. SKCR and its Medina members played a critical role in shaping the legislation.

The new regulations allow an additional open house A-board and allowances for on-premises signs facing the lake and golf course. In addition, Seattle King County REALTORS® succeeded in

increasing sign dimensions to reflect a general industry standard. Here are the new sign regulations in Medina:

On-site for sale sign: 1 per lot, up to 5 sq. ft., subject to the following

- An additional sign is allowed on waterfront side of lot
- An additional sign is allowed on the side of the lot side facing the golf course
- An additional sign is allowed at the entrance to a private lane, but only if property does not about public right-of-way

Off-site Open House signs: 3 signs, up to 4 sq.ft.

Kirkland Sign Code

SKCR was successful in its testimony to the Kirkland Planning Commission and Houghton Community Council regarding the sign code. As a result of SKCR's advocacy efforts, the Planning Commission made the following recommendations to the City Council concerning real estate signs:

- On-premise: 1 For Sale sign per unit
- Off-site Open House A-boards: 1 sign per block within ¼ mile of the property for sale
- All On-premise signs and Open House A-boards: (6 sq.ft. maximum)

The city of Kirkland is most concerned about A-boards used by (non-real estate brokerage) businesses for advertising and direction. There have been instances of sidewalk clutter and traffic interference. While real estate signs do not appear to be a problem, all A-boards have been under scrutiny. The City is expected to undertake a comprehensive sign code review in the coming year.