

Part I: Land Use and You Regulations and Your Business

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The American experience has been built around a respect for private property and a legal framework for the protection of property and the public interest. The ability to control, use, manage, and sell property has been at the heart of American property law and is embedded in the Constitution and the Bill of Rights in a variety of guarantees and protections, including protection from unreasonable searches and seizure, taking or damaging for public purpose, and guarantees of due process.

Such laws do not provide an unfettered right to use property, however, and property ownership and use have always been tied to a larger notion of public interest and welfare. Whether the Anglo Saxon/Norman tradition of "fealty" or allegiance and service to the King in exchange for land; or the more common police power regulation of land to protect the public health and safety, laws governing the use and development of land to serve a "public interest" are as old as our common law traditions and national heritage.

In the modern era, laws have grown increasingly complex and Realtors have a unique perspective and responsibility to both stay informed and to inform their customers and the public on the importance of land use issues affecting your local community.

Washington is inherently a populist state with a political desire to regulate and control matters such as land use at the local level. But cities and counties, the arms of local government assigned principal responsibility for land use regulation, are creatures of the state legislature and subject to such rules and guidance as the legislature may create. All too often land use initiatives are begun at a state level, and missed or at least misunderstood at the local level. This is particularly true in this era of Growth Management and the increasingly complex relationship between cities and counties, Growth Management Hearings Boards, and the implementation of local planning laws consistent with vague state mandates.

Realtors are at the forefront of the public's understanding of these rules, and you and your clients are directly affected by the legislative enactments and local processes.

The value in property is not inherent in the land itself, but rather in the use to which the land may be placed and the time it takes to first identify the scope of such uses, and then to achieve the necessary permits and development.

Your ability as a Realtor to be knowledgeable in the land use rules in your community will increase your standing in the community and among potential customers as you aid in the marketing or acquisition of property. Your ability to steer your clients away from bad choices or unrealistic expectations, facilitates the ability to reasonably price properties and to close sales that could otherwise delay or fail to close on complex or unachievable contingencies. A proper understanding of the rules will eventually save time, and time is money in this business.

As a real estate professional, your experience and voice are essential in shaping new laws or recommended changes in local plans. Over the next several years land use plans, critical area ordinances, and shoreline rules in your community must all be updated. This is true in all cities and counties, whether or not the area is participating in the full GMA process. The changes required will reshape your community and have significant impact on the use, value, and marketability of property.

Your ability to be a voice in the community to guide local elected officials in making choices reflecting local conditions and needs and in avoiding demands of some in the community to halt growth or levy excessive conditions, costs, or fees as a consequence of growth, will serve you and your community well. During the period of change, we all face real challenges affecting growth, a healthy economy, a healthy environment, and quality of life. The task is not an easy one, but as your knowledge base grows and you become better equipped to deal with the ever changing land use environment, the better it will be for your community, your business, and ultimately you, as a professional Realtor.

This article is the first of a series designed to educate Realtors on key land use issues and enable you to be a more effective advocate and professional in your community.

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