



Fall Quarterly Business Meeting

November 6-7, 2025

Campbell's Lodge, Chelan, Washington

Agenda

Thursday, November 6

- 7:30 a.m. Registration & Coffee Service – *Stehekin Foyer*
First Timer's Orientation – *Stehekin B*
- 8:00 a.m. Business Meeting – *Stehekin A*
 Call to Order
 Pledge of Allegiance to the Flag
 Introductions
 Outreach Welcome
 Recognitions, Relocations, Memorials
 Agenda Approval: November 6-7, 2025 – Fall Business Meeting
 Minutes Approval: July 17-18, 2025 – Summer Business Meeting
 President Report
 Executive Board Report
 Officers' Reports
 Election of Board of Directors Nominations – April ABM
 Executive Director Report
- 9:00 a.m. Recess to Committee Meetings:
- Technical Code Development Committee – *Stehekin A*
- State Group 1 & 2 Public Comments
 - ICC CAH B #2
- 10:30 a.m. Government Relations Committee – *Stehekin A*
- Lobbyist Report
 - Finalize 2026 Legislative Positions
 - Updates on Existing Legislation from Last Cycle
 - New Legislative Ideas for 2026 Session
 - Legislative Strategies for Upcoming Session
- 12:00 p.m. Luncheon – *East/West Room*

- 1:00 p.m. Guest Reports – *Stehekin A*
- International Code Council
 - ICC Region II
 - ICC Local Chapters
 - WSAPT
 - WPLBO
 - OBOA
 - WABO/SEAW
 - State Agencies
 - State Building Code Council
 - BIAW
 - MyBuildingPermit.com
 - Liaison Reports
 - Other
- 3:00 p.m. WSEC Plans Examiner Certification – *Stehekin A*
- 4:00 p.m. Code Forum – *Stehekin A*
- Please put forum topics for discussion on White Board
- 5:00 p.m. Recess until Friday morning
- 6:00 p.m. Social Event

Friday, Nov 7

- 7:30 a.m. Coffee Service – *Stehekin Foyer*
- 8:00 a.m. Business Meeting Reconvenes
 Motions and Action Items
- Reports - Standing Committees:
- Certification & Registration
 - Finance
 - Education
 - Outreach Services
 - Emergency Management
 - Accreditation
- Unfinished Business
 New Business
 Announcements
- 9:00 a.m. Professional Development – Know Your Duty
 William Hill, BHC Consultants and Dave Swasey, Swasey Consulting (ICC PP #48243)
- 12:00 p.m. Adjourn

Mark Your Calendar!

**January 29, 2026 - Winter Committee Meeting
Zoom Conferencing**

**March 16-20, 2026 - WABO Annual Education Institute
Lynnwood Convention Center**

**April 16-17, 2026 - Annual Business Meeting
Icicle Resort, Leavenworth, WA**



WASHINGTON ASSOCIATION OF BUILDING OFFICIALS

"Leading the way to excellence in building and life safety"

Proposed MINUTES – 2025 Summer Business Meeting

Mukilteo, Washington

July 17-18, 2025

Call to Order

The Summer Business Meeting of the voting representatives was called to order by President Ray Cockerham on July 17, 2025 at 8:00 a.m.

Roll Call

The following executive board officers were present:

Ray Cockerham	-	President
Todd Blevins	-	1st Vice President
Angela Haupt	-	2nd Vice President

The following executive board officers were absent:

Andy Higgins	-	Immediate Past President
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The following executive board directors were present:

Brian Smith	-	Certification & Registration
Micah Chappell	-	Technical Code Development
Andie Lorenz	-	Finance
Ryan Mumma	-	Education
Stacy Criswell	-	Outreach Services
Quyen Thai	-	Emergency Management
James Tumelson	-	Accreditation
Kurt Aldworth	-	Past President
C. Ray Allshouse	-	Past President

The following executive board directors were absent:

Tim Woodard	-	Government Relations
Trace Justice	-	Past President

The following management personnel were present:

Tara Jenkins	-	Executive Director
Troy Jenkins	-	Jenkins Management Solutions
Tanner Jenkins	-	Jenkins Management Solutions

Introductions

The active member voting representatives, associate members, and guests introduced themselves. Registration list is on file at the WABO office.

Agenda

The President presented the proposed Agenda for the July 17-18, 2025, Summer Business Meeting.

MOTION: It was moved and seconded that the Agenda be approved as presented.

The motion carried.

Minutes

The President presented the proposed Minutes for the WABO Annual Business Meeting held on April 17-18, 2025.

MOTION: It was moved and seconded that the Minutes be approved as presented.

The motion carried.

President's Report

President Ray Cockerham announced that he and Todd Blevins will be attending the Building Industry Association of Washington (BIAW) in the fall. Ray reported that the 30th anniversary of the WA State Permit Technicians will be celebrated at their September Annual Business Meeting and that he will be in attendance. He also reported that WABO's immediate past president, Andy Higgins, has been appointed to the ICC Board of Directors and will be running to retain that seat at the 2025 ICC Annual Business Meeting. Ray reflected on when he was a newly elected President and quickly overextended himself to commitments but has been rewarded on his involvement. Ray encouraged members to find a committee that they have interest in and to get involved, participate, and move forward!

Executive Board Report

No Report.

First Vice President

No Report.

Second Vice President

Angela Haupt provided an overview on the Friday morning professional development and encouraged members to stay for the training.

Immediate Past President

No Report.

Executive Director

Tara Jenkins discussed the meeting logistics to the membership. Tara asked members to review the budget in the packet and to be ready for the budget presentation on Friday. Tara provided information on the self-paced Plumbing Design & Installation course and announced open registration for the Fall 2025 quarter of COAP.

Meeting recessed for committee meetings at 8:20 a.m.

Meeting reconvened at 1:00 p.m.

GUEST REPORTS:

International Code Council

David Spencer announced that ICC has released a 'State of the Industry' report and encouraged members to review. He reported an upcoming bylaw proposal that will be presented to the membership for consideration at the 2025 ICC Annual Business Meeting to help strengthen the ICC Governance Model. David reported the keynote speaker for the Annual Business Meeting and that 'Enchanted Night' will be the gala theme. David reported that he established an ad hoc committee to study the board seats and sectional representation to see if the established board seats are still relevant.

Allison Cook announced a bylaw proposal that she is seeking support (signatures) from voting representatives so she can present to ICC for consideration at the 2025 ICC Annual Business Meeting. Allison stated that the bylaw change would limit board representation to no more than 2 from a state and no more than 3 for a for-profit entity.

ICC Region II

No report.

ICC Local Chapters

No reports.

WSAPT

Tela Gardner reported that the WSAPT will be celebrating their 30th year and that they were the first permit chapter to form. Tela announced that the WSAPT Annual Business Meeting will be held on September 22-23, 2025 in Chelan, WA with a keynote speaker and a leadership panel with the theme of 'Honoring our History and Inspiring our Future.' Tela informed the members that Andie Lorenz will also be providing a training seminar on 'Complete Approach to Counter Review.' She also announced that on July 30th a virtual communications training will be offered. Tela informed the membership that Permit Tech Nation is coming up on 10 years and will hold their annual meeting at ICC's Annual Business meeting on Sunday from 10 am – 12 pm.

WPLBO

Kurt Aldworth provided an overview of the Western Pacific League of Building Officials that represents Washinton, Oregon, California and Southern Nevada. Kurt reported the upcoming

candidate's forum will be held in SeaTac, WA on August 21-22, 2025. There are currently 9 individuals running for 5 open seats.

WSAFM

No report.

OBOA

Ray Cockerham reported that OBOA could not send a representative to our meeting, and we could not send a representative to theirs as our meeting schedules keep conflicting.

WABO/SEAW

Hoyt Jeter reported the committee is working on updating the white papers to the 2021 codes. He noted that a code change proposal will be submitted to ACI for consideration regarding concrete walls. Hoyt reminded members that if they want to see a white paper developed to help with consistent interpretation to please let him know for committee consideration.

NFPA

Ray Cockerham reported that Greg Rogers is our new NFPA representative. Ray announced that NFPA hosted a Building Official Forum that he was able to attend last year and this year First Vice President, Todd Blevins, will attend.

Ray Allshouse informed the members about NFPA Technical Committees. If you are an enforcer of codes you are eligible to apply for a seat on their committee and, if selected, they will reimburse 75% of the cost to attend.

State Agencies

No reports.

State Building Code Council

Angela Haupt reported that the Building, Fire, Residential, and Wildland Urban Interface subcommittee is reviewing proposals. Angela informed that the embodied carbon subcommittee is going to recommend to 'not approve' the proposal. She reported that the council is reviewing the EV Charging Station proposals, and the main change will be to the number of EV stalls. EV Ready (everything but the items on the wall) went from 25% down to 10%, EV Capable (panel space available and future equipment installation) from 10% up to 40%, and Full Charging (ready to go) 10%. The next Council meeting is July 25, 2025. Public hearings for Group 1 will be in September and Group 2 in October.

MyBuildingPermit.com (MBP)

Michelle Miller informed the members that Mybuildingpermit.com is a coalition of 16 jurisdictions that own, develop, and support an online permitting portal. Michelle reported that MBP is onboarding the City of Ruston. Michelle announced that a backend system has been approved and that the current portal is being rebuilt (5 jurisdictions are cost sharing to fund the project and will be repaid with reimbursements). Michelle announced that AI tools will be incorporated into the portal and an RFP will go out in August for potential vendors to build the AI tools.

Liaison Reports

State Electrical Board –

James Tumelson announced the Electrical Board Meetings meet quarterly just like WABO. The Electrical Board is working to adopt the new code language for the 2026 NEC. James reported the adoption date for the 2026 NEC will be December 31, 2026. The Electrical Board will also be looking at clarification of training and training requirements.

Liaison Committee –

Stacy Criswell reminded the membership that WABO has a coalition of WABO members who volunteered to act as a liaison between WABO and other key organizations. Stacy informed that a liaison committee meeting was held and guidelines on what should be reported on was outlined. If there is any major information, liaisons can either report to Stacy so he can share the information or the liaison is welcome to report to the group personally. He also stated that he is always looking to refine the liaison list to ensure we partner where appropriate.

SB5290 –

Ray Cockerham informed the members that the workgroup recently published scorecards. The Guidebook is still being completed and has moved over to Commerce to finish the project.

Meeting recessed for code forum at 2:20 p.m.

Friday, July 18, 2025 at 8:00 a.m. – Meeting reconvened

President Ray Cockerham reconvened meeting at 8:00 a.m.

Motion and Action Items

Finance Report

Andie Lorenz presented the 2025/2026 WABO Budget.

Motion: It was moved and seconded to approve the 2025/2026 Budget as presented. Motion passed.

Andie Lorenz discussed credit card fees and the high cost of fee absorption that WABO is incurring. The finance committee proposes to phase out these fees and impose a credit card surcharge and to provide a ACH option to members as an alternative payment method.

Motion: It was moved and seconded to implement a credit card surcharge effective FY 26/27. Motion passed.

STANDING COMMITTEE REPORTS:

C & R Committee

Brian Smith gave a special thank you to Ray Cockerham, Duane Jonlin, and Molly Severns for volunteering their time to work on the Energy Code Plans Examiner Certification. The subcommittee is working on residential questions and currently revising questions in a suitable

format for online testing. Brian reported that the subcommittee is waiting on a plan set from WSU that will be used to develop plan specific questions and that he is also waiting for an update from Lisa Rosenow on the Commercial questions. Though, to-date, the subcommittee has been happy with the questions so far.

Finance Committee

Andie Lorenz provided the membership with an overview of WABO's 2024/2025 year-end financials.

Outreach Services Committee

Stacy Criswell encouraged first timers to keep the attendee list that is included in the meeting packet and utilize it as a resource for networking.

Emergency Management Committee

Quyen Thai informed the members that FEMA still exists for awareness and is still a resource. He announced that a WAsafe Building Safety Responder (ATC 20/45 Plus) training will be held in Tacoma on August 18, 2025 and encouraged jurisdictions to send staff. Quyen announced that WAsafe business cards are available at the registration desk to guide individuals on how to sign up and become a WAsafe Building Safety Responder. Lastly, Quyen reported that the Finance Committee has approved funding for WAsafe to complete the coordinator handbook.

Jon Siu reported that the WAsafe Training Committee has a limited pool of instructors that are available to provide the WAsafe training. Jon encouraged individuals to consider taking the 'Train the Trainer' course and join the pool of approved trainers. Jon also stated the importance of the coordinator handbook to be able to develop the network of individuals that will be called upon to deploy volunteers (Coordinators). Jon reminded members that if they are current responder due for renewal, that WAsafe has a completely online WAsafe renewal course.

Accreditation Committee

Ray Cockerham reported that he and Kelly Thompson will be presenting in August at a state conference of technical career counselors to bring awareness of the program to high school counselors and hopefully provide another funnel of potential new staff members to the jurisdictions.

James Tumelson stated that he is excited about the work coming up and the work that has been completed on the program. James reminded members that the Code Official Accreditation Program (COAP) received grant funding that was used for course improvement and marketing. Discussions were held with Clover Park and WSU in the hopes of creating a bridge program for students to leverage and earn a degree. James informed members that COAP held their first ever vendor booth at the Education Institute and will continue to seek booth opportunities. James reported the final report was turned over to the state and he thought the project was done, but the state is requesting WABO provide additional funding requests that they can submit for consideration. James reported that COAP will pursue additional funding, but the funding request could fall short this year to the state's budgetary constraints.

Announcements

Ray Cockerham thanked WABO Sponsors, management team, and announced the upcoming meeting in the fall being held in Chelan WA.

Unfinished Business

None.

New Business

None.

Meeting adjourned at 9:00 a.m.

**WABO Fall Business Meeting
Nov 6-7, 2025
Attendee List**

MIZAEEL ACEVEDO CBO

CITY OF RICHLAND CITY OF RICHLAND

C. RAY ALLSHOUSE AIA, CBO, ACO

CITY OF SHORELINE CITY OF SHORELINE

PATRICK BARRY

CITY OF TACOMA CITY OF TACOMA

LOWELL BROWN

4LEAF, INC. 4LEAF, INC.

MICAH CHAPPELL MBA, CBO

CITY OF SEATTLE, SDCI CITY OF SEATTLE, SDCI

STACY CRISWELL CBO, ACO

CITY OF MONROE CITY OF MONROE

DELWIN DAVIS

CITY OF EDGEWOOD CITY OF EDGEWOOD

MATTHEW DEHR

DEPARTMENT OF NATURAL RESOURCES (DNR)

EDWIN DURAN

CITY OF SEATTLE DCI CITY OF SEATTLE DCI

MARTY GILLIS CBO

WEST COAST CODE CONSULTANTS, INC. WEST

PATRICK HANKS

BUILDING INDUSTRY ASSOCIATION OF

ANGELA HAUPT CBO

CITY OF KIRKLAND CITY OF KIRKLAND

WILLIAM HILL CBO, ACO

RETIRED - BHC CONSULTANTS RETIRED - BHC

TANNER JENKINS

WASHINGTON ASSOCIATION OF BLDG. OFFICIALS

TROY JENKINS

JENKINS MANAGEMENT SOLUTIONS, LLC JENKINS

FRANK KALIGIS

CITY OF SEATAC CITY OF SEATAC

TIM LINCOLN

CITY OF ORTING CITY OF ORTING

KURT ALDWORTH CBO, ACO

CITY OF KIRKLAND CITY OF KIRKLAND

R. LOWELL AUSMUS

CITY OF SEDRO-WOOLLEY CITY OF SEDRO-

R. TODD BLEVINS CBO

CITY OF WEST RICHLAND CITY OF WEST

SEAN CARLSTROM CBO, MCP, CFM, ACO

CITY OF BLACK DIAMOND CITY OF BLACK

RAY COCKERHAM CBO

CITY OF PUYALLUP CITY OF PUYALLUP

MARIAN DACCA

WASHINGTON ASSN OF BUILDING OFFICIALS

STEPHANIE DAY

CITY OF KIRKLAND CITY OF KIRKLAND

JOE DISCIASCIO

CITY OF BURIED CITY OF BURIED

TELA GARDNER

CITY OF KIRKLAND CITY OF KIRKLAND

JOHNATHAN GOLDSMITH CBO, ACO

CITY OF SPOKANE CITY OF SPOKANE

KEVIN HARMON

GRANT COUNTY GRANT COUNTY

C. ANDREW HIGGINS MCP, CBO, ACO

CITY OF SEATTLE, DCI CITY OF SEATTLE, DCI

BRYAN IMAI

ICC GOVERNMENT RELATIONS ICC GOVERNMENT

TARA JENKINS

WASHINGTON ASSN OF BUILDING OFFICIALS

HOYT JETER PE

CITY OF TACOMA CITY OF TACOMA

CRYSTAL KOLKE CBO

TOWN OF BEAUX ARTS VILLAGE TOWN OF BEAUX

LUKASZ LISOWSKI

PORT OF SEATTLE PORT OF SEATTLE

ANDIE LORENZ CBO, ACO

ADAMS COUNTY ADAMS COUNTY

HEATHER MAUSETH

DOUGLAS COUNTY DOUGLAS COUNTY

ALEJANDRA MOLINA

4LEAF, INC 4LEAF, INC

RYAN MUMMA CBO, ACO

CITY OF BELLEVUE CITY OF BELLEVUE

JOSEPH NICOLAS PE

4LEAF, INC. 4LEAF, INC.

ANDY NORTON

CITY OF FEDERAL WAY CITY OF FEDERAL WAY

DAVID READER

CITY OF SEATAC CITY OF SEATAC

ROBERT SHUEY CBO

CITY OF RENTON CITY OF RENTON

BRIAN SMITH CBO, ACO

CITY OF CAMAS CITY OF CAMAS

DAVID SWASEY CBO, ACO

SWASEY CONSULTING SWASEY CONSULTING

SHARI TINCHER

DOUGLAS COUNTY DOUGLAS COUNTY

ELIZABETH TORSKE

CASCADE NATURAL GAS CASCADE NATURAL GAS

JOSHUA WEEKS

CITY OF BATTLE GROUND CITY OF BATTLE

TIM WOODARD CBO, ACO

CITY OF MOUNT VERNON CITY OF MOUNT

ROBERT MATHIS

PIERCE COUNTY PIERCE COUNTY

TOM MILLER

CITY OF BELLEVUE CITY OF BELLEVUE

JEROMY MOORE CBO, ACO

CITY OF PULLMAN CITY OF PULLMAN

WILLIAM MUMMA

CITY OF MOSES LAKE CITY OF MOSES LAKE

SHANE NILLES CBO, ACO

AMERICAN WOOD COUNCIL AMERICAN WOOD

DEAN RAFTIS

DEPARTMENT OF NATURAL RESOURCES (DNR)

GINNY RUMISER

WHITMAN COUNTY WHITMAN COUNTY

JON SIU PE, SE, ACO

JON SIU CONSULTING, LLC JON SIU CONSULTING,

FRANK SPAUN

PORT OF SEATTLE PORT OF SEATTLE

QUYEN THAI MCP, CBO, CFM, MPA

CITY OF TACOMA CITY OF TACOMA

CASEY TJEERDSMA

CITY OF CHELAN CITY OF CHELAN

JAMES TUMELSON CBO, MCP, ACO

CITY OF EDGEWOOD CITY OF EDGEWOOD

VAN WILFINGER

APA - THE ENGINEERED WOOD ASSOCIATION APA ·



Relocations, Recognitions, & Memorials

Robert Brunk – City of University Place – New Building Official

Roy Simmons – City of Hoquiam – New Building Official

Scott Shannon – City of SeaTac – New Building Official

Dee Garrison – City of Lake Forest Park – New Building Official

Sean Carlstrom – City of Black Diamond – New Building Official

Eric Gilbreath – Seattle/King County Public Health – New Chief Plumbing Inspector

Annette Warren – Clallam County – Retired

Dean Bentley – City of University Place – Retired

Mary Kate McGee – City of SeaTac – Retired

Steve Hart – Seattle/King County Public Health – Retired

**Please Let Us Know When You Learn of Code Official Relocations,
Recognitions, & Memorials**



TO OUR



SPONSORS

PLATINUM

CWA Consultants, PS
Jon Siu Consulting, LLC



SPONSORS

Interior Technology
Northwest Code Professionals

DIAMOND

BHC Consultants



SPONSORS

GOLD

4LEAF, Inc.



SPONSORS

SAFEbuilt Washington, LLC

SILVER

American Plumbing Contractors, Inc.
Forerunner



SPONSORS

Clarity Consulting Engineers, PLLC
Swasey Consulting

BRONZE

AEGIS Engineering
Bitco Software
Cloudpermit, Inc.
IAPMO
National Fire Sprinkler Assn.
Oracle
Simpson Strong-Tie
Tyler Technologies



SPONSORS

APA The Engineered Wood Assn.
Clariti Software
DuetRight, LLC
MyBuildingPermit.com
OpenGov
Selectron Technologies
Tenmat, Inc.
West Coast Code Consultants



SCHEDULE OF EVENTS

Year 2025

November 6-7	Fall Business Meeting	Campbell's Resort, Chelan
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Year 2026

Jan 29	Winter Committee Meeting	Zoom Conferencing
March 16-20	Annual Education Institute	Lynnwood Event Center
April 16-17	Annual Business Meeting	Icicle Village, Leavenworth
July 16-17	Summer Business Meeting	Holiday Inn on the River, Richland
Oct 29-30	Fall Business Meeting	Ruby River Hotel, Spokane

Year 2027

Jan/Feb TBD	Winter Committee Meeting	Zoom Conferencing
March 15-18	Annual Education Institute	Muckleshoot Resort
April 15-16	Annual Business Meeting	Icicle Village, Leavenworth
July 21	Summer Business Meeting	Zoom Conferencing
Oct 21-22	Fall Business Meeting	Marcus Whitman, Walla Walla



*Save
the
Date*

WINTER BUSINESS MEETING

Registration Fee: \$0

Location:

Zoom Conferencing

Date:

January 29, 2026

Thursday 9:00 AM - 12:00 PM

REGISTER ONLINE AT WWW.WABO.ORG

For More Information Call (360)628-8669



ACCREDITED CODE OFFICIALS

Join your colleagues and become a WABO Accredited Code Official!

Application forms available on our website at www.wabo.org

CONGRATULATIONS TO OUR ACOs!

Kurt Aldworth, CBO, ACO

C. Ray Allshouse, CBO, AIA, ACO

Michael Barth, MCP, ACO

Dave Cantrell, ACO

Sean Carlstrom, MCP, CBO, CFM, ACO

Gregory Colvig, CBO, ACO

Stacy Criswell, CBO, ACO

Joel Dressel, CBO, ACO

Steve George, CBO, ACO

Dean Giles, AIA, ACO

Jonathan Goldsmith, CBO, ACO

C. Andrew Higgins, MCP, CBO, ACO

Ardel Jala, PE, ACO

Trace Justice, CBO, ACO

Lee Kranz, CBO, ACO

Andie Lorenz, ACO

S. Kelly Mayo, CBO, ACO

Mary Kate McGee, CBO, ACO

Jeromy Moore, CBO, ACO

Ryan Mumma, CBO, ACO

Dermott Murphy, MCP, CBO, ACO

Shane Nilles, CBO, ACO

Thomas Phillips, CBO, ACO

Chris Ricketts, CBO, ACO

Gary Schenk, CBO, ACO

Jon Siu, PE, SE, ACO

Brian Smith, CBO, ACO

David Spencer, CBO, ACO

David Swasey, CBO, ACO

James Tumelson, MCP, CBO, ACO

Tim Woodard, CBO, ACO

WABO
Budget Comparison
07/01/2025 to 09/30/2025

		<u>This Period</u>	<u>Budgeted</u>	<u>Percentage</u>
Member Services				
	Income	\$ 4,987	\$ 83,250	6.0%
	Expense	\$ 80,002	\$ 285,039	28.1%
Bookstore				
	Income	\$ 11,574	\$ 274,283	4.2%
	Expense	\$ 9,324	\$ 262,972	3.5%
Welder Program				
	Income	\$ 123,798	\$ 567,776	21.8%
	Expense	\$ 60,998	\$ 257,293	23.7%
Special Inspection Program				
	Income	\$ 23,373	\$ 95,348	24.5%
	Expense	\$ 33,879	\$ 132,879	25.5%
Education Institute				
	Income	\$ -	\$ 199,032	0.0%
	Expense	\$ 491	\$ 192,286	0.3%
Seminars				
	Income	\$ -	\$ 3,060	0.0%
	Expense	\$ -	\$ 4,477	0.0%
Accreditation				
	Income	\$ 19,661	\$ 68,534	28.7%
	Expenses	\$ 16,259	\$ 72,018	22.6%
Finance				
	Income	\$ -	\$ -	
	Expense	\$ 6,975	\$ 26,750	26.1%
Government Relations				
	Income	\$ -	\$ -	
	Expense	\$ 9,791	\$ 42,388	23.1%
Outreach				
	Income	\$ -		
	Expense	\$ -	\$ 2,250	0.0%
Technical Code Development				
	Income	\$ -	\$ -	
	Expense	\$ 6,755	\$ 109,500	6.2%
Emergency Management				
	Income	\$ 8,640	\$ 3,600	240.0%
	Expense	\$ 7,105	\$ 12,425	57.2%
Administration				
	Income	\$ 9,505	\$ 48,000	19.8%
	Expense	\$ 9,758	\$ 50,565	19.3%
Total				
	Income	\$ 201,537	\$ 1,342,883	15.0%
	Expense	\$ 241,338	\$ 1,450,842	16.6%

WABO - Summary
Profit & Loss
July through September 2025

	<u>Jul - Sep 25</u>
Ordinary Income/Expense	
Income	
Accreditation	
Accreditation Renewal	75.00
Accredited Code Official Progra	114.00
Total Accreditation	189.00
Bookstore	
Apparel Sales	133.86
Book Sales	6,982.95
Book Sales - ICC Sales	3,545.13
Shipping & Handling Income	912.24
Total Bookstore	11,574.18
Interest	
Money Market	96.13
Total Interest	96.13
Investment Income	
Dividends	9,408.52
Total Investment Income	9,408.52
Job Postings on Web Page	1,984.00
Membership Dues	156.00
Registrations	
Self-Guided	2,099.00
COAP	17,372.60
Registrations - Other	11,487.00
Total Registrations	30,958.60
Returned Check Fee	145.00
Special Inspection	
Fabricators	
Facility Application	515.00
Facility Audits	1,422.33
Facility Renewals	877.00
QC Personnel	824.00
Fabricators - Other	0.00
Total Fabricators	3,638.33
SI	
Agency Applications	361.00
Agency Audits	4,015.61
Key Personnel	3,564.00
Special Inspectors	11,793.80
Total SI	19,734.41
Special Inspection - Other	0.00
Total Special Inspection	23,372.74
Welder Certification	
Agency Applications	310.00
Agency Audits	3,637.00
Examiner Application & Renewals	1,941.00
Welder Applications & Renewals	117,413.00

WABO - Summary
Profit & Loss
July through September 2025

	Jul - Sep 25
Welder Performance Test Records	352.00
Welder Certification - Other	0.00
Total Welder Certification	123,653.00
Total Income	201,537.17
Gross Profit	201,537.17
Expense	
B&O Taxes	2,325.98
Bank Charges	80.00
Bookstore Purch - COGS	
Apparel Purch - COGS	0.00
Bookstore Purch - COGS - Other	5,743.70
Total Bookstore Purch - COGS	5,743.70
Computer Expenses	
Computer Software	382.01
Web Page Fees	1,968.19
Total Computer Expenses	2,350.20
Credit Card Fees	5,467.33
Executive Board	
Donations/ Other Agency Support	1,000.00
Meetings	20,214.06
Travel	1,955.37
Total Executive Board	23,169.43
Lobbyist	9,597.00
Management Fees	152,807.88
Marketing/ Advertising	
Scholarships	360.00
Total Marketing/ Advertising	360.00
Meeting Expenses	
Quarterly Meeting Expenses	
Meeting Scholarships	1,038.52
Member Promotions	898.30
Quarterly Meeting Expenses - Ot...	5,736.02
Total Quarterly Meeting Expenses	7,672.84
Meeting Expenses - Other	1,689.30
Total Meeting Expenses	9,362.14
Postage and Shipping Expense	4,392.06
Printing	
Amendment Printing	24.24
Printing - Other	1,860.18
Total Printing	1,884.42
Publication Expense	231.12
Supplies	801.47
Tech Consultant Services	
Consultant Travel Fee & Expense	4,678.63

WABO - Summary
Profit & Loss
July through September 2025

	Jul - Sep 25
Fabricator Consultant	1,375.00
SIRP Consultant	6,239.75
Technical Code Consultant	6,550.00
Welder Consultant	2,375.00
Total Tech Consultant Services	21,218.38
Telephone and Internet	1,217.36
Travel Expense	340.87
Total Expense	241,349.34
Net Ordinary Income	-39,812.17
Other Income/Expense	
Other Income	
Unrealized Gain/Loss	58,593.46
Total Other Income	58,593.46
Net Other Income	58,593.46
Net Income	18,781.29



Nominations for WABO Leadership

Volunteer leadership and participation of the members is what makes the Washington Association of Building Officials a superior organization and we urge you to consider serving on the Executive Board or as a Committee Chair. Candidates for elected office must be a voting member. Committee membership is open to all WABO members.

Application for WABO Executive Board

Name: _____

Title: _____

Jurisdiction: _____

Address: _____

City/State/Zip _____

Phone: _____ FAX _____

Email: _____

Elected Positions

Officers:

☐

President

☐

First Vice-President

☐

Second Vice-President

Directors (Committee Chairs)

☐

Technical Code

☐

Education Institute

☐

Certification and Registration

☐

Outreach Services

☐

Finance

☐

Government Relations

☐

Emergency Management

☐

Accreditation

I am applying for the position indicated above and understand there is a time commitment involved in serving WABO membership in this capacity. I understand that I will be expected to attend quarterly business meetings and participate via email and/or teleconferences.

Signature of Applicant: _____

Signature of Supervisor: _____

Title: _____ Date: _____

Please return to WABO, P. O. Box 7310, Olympia, WA 98507 or fax 360-918-8021



Annual Awards



JURISDICTIONAL OUTREACH AWARD

Purpose: The Jurisdictional Outreach Award is to salute jurisdictions that have made an exceptional effort to communicate with their communities and customers. This annual award recognizes a jurisdiction that demonstrates a commitment to its customers through the successful implementation of a program designed to expand the awareness of building codes and safety in the community.

Who: Any department or division of a local government in Washington that has the authority and responsibility for administration and enforcement of the building codes is eligible to receive the award. Nominations may include more than one jurisdiction to recognize mutual efforts.

Award: A plaque honoring the recipient. A certificate is presented to the jurisdiction's chief executive officer, administrator, or elected official and to the ICC Chapter president.

OUTSTANDING EDUCATIONAL ACHIEVEMENT

Purpose: The Outstanding Educational Achievement Award is to honor ICC Chapters and the members that are leaders in educating building code administration and enforcement professionals in standards of professionalism. This award recognizes an ICC Chapter or Chapter member that has demonstrated outstanding commitment, effort, and achievement in promoting high standards of professionalism for individuals involved in building code administration and enforcement in Washington.

Who: All ICC Chapters and Chapter members in the state of Washington.

Award: A plaque honoring the recipient

CODE OFFICIAL OF THE YEAR

Purpose: The WABO Code Official of the Year Award is to recognize individuals who have made an outstanding contribution to the Washington Association of Building Officials and to building officials throughout Washington. Criteria for the award are contribution to WABO, promotion of WABO ideals, philosophy, and goals, and contribution to building safety on a statewide level.

Who: Must be a member of WABO.

Award: A plaque honoring the recipient

ASSOCIATE MEMBER OF THE YEAR

Purpose: The WABO Associate of the Year is to recognize an Associate Member who has made an outstanding contribution to the Washington Association of Building Officials and to building officials throughout Washington. The criteria for the award are contribution to WABO, promotion of WABO ideals, philosophy, and goals, and contribution to building safety on a statewide level.

Who: Must be an Associate Member of WABO.

Award: A plaque honoring the recipient.

Nomination Procedures:

The official nomination form for all awards must be completed and returned to the WABO office thirty days prior to the ABM. Awards will be announced at the WABO Annual Awards Banquet during the Annual Business Meeting. Nominations will be screened by the Nominations Committee and voted on by the Executive Board. All award winners will be featured in an article of *The WABO News*.



Washington Association of Building Officials

Awards Program Nomination Form

(check one)

☐

Jurisdictional Outreach Award

☐

Outstanding Educational Achievement Award

☐

WABO Code Official of the Year Award

☐

WABO Associate of the Year Award

Name _____

Jurisdiction _____

Chapter _____

Company _____

Address _____

Contact Person _____ Phone _____

Individual or Group Making the Nomination:

Name _____

Address _____

Phone _____ Email _____

Description of accomplishments (use additional pages if necessary). Samples of materials, web addresses, and other pertinent materials may be included.

**Send Nomination form to WABO, P. O. Box 7310, Olympia, WA 98507
or fax to 360-918-8021**



Draft 2026 WABO Legislative Positions

- **Funding for State Building Code Council:** The Washington State Building Code Council (SBCC) is mandated by state law to develop the construction codes used in Washington and that effort requires adequate funding to accomplish their mission. WABO supports continued adequate funding, the ability to readily access funding, and clarification for consistent fee application by local jurisdictions.
- **Protect Local Authority:** WABO supports protecting local authority to amend, adopt and administer construction codes.
- **Code Cycle:** WABO supports keeping Washington consistent with the national model code adoption cycle.
- **Consumer Protection:** WABO supports measures to protect the public from unqualified and illegal contractors, such as requiring contractor training and education, and establishing minimum qualification standards for contractors and Building Officials.
- **Electrical Code:** WABO supports legislation that provides jurisdictions with equal authority to develop and adopt the Washington State Electrical Code.
- **Unfunded Mandates:** WABO recognizes that jurisdictions have limited fiscal capacity and opposes unfunded and under-funded mandates.
- **Seismic Resilience:** WABO supports legislation to assist building owners in retrofitting existing seismically vulnerable buildings, and to promote research on codes that support community recovery from seismic events. Focus in these areas may reduce the impact of seismic events by promoting economic resiliency and functional recovery of our communities.
- **Certification and Training:** WABO supports improving the efficiency of the construction permit and inspection process with training and certification for code officials and code technicians.
- **Energy Code Compliance.** WABO supports legislation that promotes resource allocation for effectively achieving substantial compliance via plan review and inspections of the WA State Energy code.
- **Increase in Housing Supply:** WABO understands the statewide need to increase all housing types and urges lawmakers to ensure housing continues to comply with the state building code council adopted codes to ensure a safe built environment.
- **Building Permit Efficiency:** WABO urges the legislature to consider the significant role that building permits play in ensuring health and safety in the built environment. All permitting efficiency efforts intending to speed up the permit process also need to be viewed in the lens of the essential purpose of the permit itself: ensuring substantial compliance with the applicable laws in effect at the time of permit application.
- **Code language in RCW:** WABO recognizes that the role of the legislature is to set policy direction, however requests that all new code development is tasked to the appropriate state agency, such as SBCC, and is funded appropriately.
- **Volunteer Organizations for Disaster Response:** WABO supports legislation that increases State support for emergency response/recovery volunteer programs (e.g., WAsafe – Building Safety Evaluations), or promotes those types of programs.

HOUSE BILL 1810

State of Washington

69th Legislature

2025 Regular Session

By Representatives Donaghy, Reeves, Walen, Ramel, Bernbaum, Low, Reed, Paul, Santos, Berry, Nance, Pollet, and Zahn

Read first time 02/03/25. Referred to Committee on Appropriations.

1 AN ACT Relating to seismic hazard risk reduction; creating new
2 sections; and providing expiration dates.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that Washington has
5 the second highest earthquake risk in the United States. A major
6 seismic event will result in loss of life and injury due to
7 structural collapse. The state has an 86 percent chance of
8 experiencing a damaging earthquake between now and the next 50 years.
9 A damaging earthquake will happen during our lifetime, and we are
10 unprepared. The seismic retrofit of collapse-prone buildings is
11 critical for ensuring the safety of our citizens and reducing
12 economic disruption. Unreinforced masonry buildings, classic red
13 brick buildings of common construction prior to World War II, were
14 built for their fire resistance and are at risk of collapse in an
15 earthquake due to their lack of reinforcing steel and inadequate
16 connections. A full or partial collapse of these structures is
17 significantly reduced by conducting seismic retrofits, bracing
18 parapets, and strengthening connections between the floors, walls,
19 and roof.

20 The legislature further finds that supporting the identification
21 and earthquake retrofit of unreinforced masonry buildings will

1 increase public safety in the event of an earthquake, reducing
2 deaths, injuries, property damages, displacement, and economic
3 disruption.

4 The legislature further finds that financial resources are needed
5 to assist owners of unreinforced masonry buildings in conducting
6 these lifesaving earthquake retrofits. Local jurisdictions have been
7 unable to mandate the retrofit of these vulnerable structures, citing
8 the economic unviability it poses for building owners who will be
9 forced to pass costs along to tenants, decreasing the already limited
10 stock of affordable housing.

11 Therefore, it is the intent of the legislature to support public
12 safety, earthquake readiness, and affordable housing by identifying
13 feasible opportunities to reduce the financial burden associated with
14 conducting seismic retrofits of unreinforced masonry buildings.

15 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
16 appropriated for this specific purpose, the department of commerce
17 must conduct a study regarding financial incentives to reduce the
18 financial burden associated with the seismic retrofit of unreinforced
19 masonry buildings.

20 (2) The study must, at a minimum, include impact analysis and
21 policy recommendations for:

- 22 (a) The modification and expansion of the special valuation tax;
- 23 (b) The expansion of current use taxation;
- 24 (c) Opportunities for time-limited exemptions under state
25 property tax, excise tax, sales tax, business and occupation tax, or
26 other tax structures;
- 27 (d) The use of valuation of special assessments and assessment
28 zones; and
- 29 (e) The identification of financial incentives for tax-exempt
30 entities, such as schools, nonprofits, and religious organizations.

31 (3) The department of commerce must request input from the state
32 association of county assessors, American institute of architects
33 Washington chapter, structural engineers association of Washington,
34 the department of revenue, and the joint legislative audit and review
35 committee.

36 (4) The department of commerce must submit a preliminary report
37 on the outcomes of the completed study to the appropriate committees
38 of the legislature by June 30, 2026, and a final report must be
39 submitted by September 1, 2026. The report must also include policy

1 recommendations relating to financial incentives for the retrofit of
2 unreinforced masonry buildings.

3 (5) This section expires December 31, 2026.

4 NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts
5 appropriated for this specific purpose, the emergency management
6 division of the Washington military department must complete the
7 inventory and categorization of unreinforced masonry buildings in
8 Washington, as directed in section 1009, chapter 298, Laws of 2018.

9 (2) The inventory must include:

10 (a) Review of existing survey and data sources, including the
11 state's historic resources database and Sanborn maps to identify and
12 confirm unreinforced masonry construction;

13 (b) Ground truthing of suspected unreinforced masonry to confirm
14 construction type and vulnerability; and

15 (c) Upload unreinforced masonry data into the Washington system
16 for architectural and archaeological records data portal and
17 dashboard to enable local jurisdictions to view, download, and use to
18 guide unreinforced masonry retrofit efforts, hazard mitigation plans,
19 and emergency management plans.

20 (3) The emergency management division of the Washington military
21 department must submit a preliminary report on the progress of the
22 completed inventory to the appropriate committees of the legislature
23 by September 1, 2027. The statewide unreinforced masonry inventory
24 must be completed by June 30, 2030.

25 (4) This section expires December 31, 2030.

--- END ---



4LEAF, INC.

ENGINEERING · CONSTRUCTION MANAGEMENT
PLAN CHECK · BUILDING INSPECTION · PLANNING

Please Join Us for an “Old Fashion” .., Mixer!

5:30 p.m., to 8:00 p.m. Thursday, 11/06/25



THE LANDING BAR & GRILL

Across the Street from Campbells' Resort

**Appetizers and beverage coupons available for all-
4Leaf Invites, WABO and their significant persons**

Be sure to stay for the RAFFLE @ 7:30 P.M.



Professional Development

Fall Business Meeting 2025

KNOW YOUR DUTY

ICC Preferred Provider Course #48243 (0.3 CEU)

Presenters:

William Hill, CBO - BHC Consultants

Dave Swasey, CBO - Swasey Consulting



Course Overview:

This presentation will go over the specifics of the Public Duty Doctrine as well as the Open and Plain view Doctrines. Class participation will be encouraged, Tell us your stories... Even the Whoppers!

Precedent setting case history will be identified and discussed. After this session you should be less inclined to take that position "I'm not signing that, I don't want to be liable".

PRESENTED BY:

WILLIE HILL

DAVE SWAZEY

YOU DON'T HAVE TO WORRY ABOUT
DOING YOUR JOB IF YOU UNDERSTAND
THESE DOCTRINES

KNOW YOUR DUTY

The public duty doctrine is a legal principle that holds that government entities owe duties to the public at large rather than to individual citizens, protecting them from liability for failing to provide specific services.

Definition and Purpose

Historical Context

The public duty doctrine emerged as a response to the abolition of sovereign immunity, which previously protected government entities from being sued for negligence. As governments began to accept liability for torts, the public duty doctrine was developed to limit this liability, ensuring that government entities are not overwhelmed by lawsuits from individuals claiming harm due to general failures in public service.

MRSC

1. General vs. Specific Duty: Government entities are generally not liable for failing to protect individuals unless they have a specific duty to that individual. For example, police officers have a duty to protect the public but do not have a specific duty to protect any one individual unless a special relationship is established.

2

2. Special Relationships: In some cases, a special relationship can create a duty of care. This may occur when a government agency makes specific promises to an individual or when there is a direct interaction that sets the individual apart from the general public.

2

3. Limitations on Liability: The doctrine serves to protect government entities from excessive liability, allowing them to focus on their responsibilities without the constant threat of lawsuits from individuals claiming harm due to general failures in service.



3

Public Duty Doctrine – Origin

In 1967 the legislature stripped the sovereign immunity "The King can do no wrong " from local governments.

The ensuing years brought a plethora of litigation against government activities. Over the next several years, case law was established that provided some reasonable protections via what we now know as the public duty doctrine.

104

Public Duty Doctrine

The premise of the public duty doctrine is that a general duty owed to the public is not a duty owed to a particular individual.

As example, a police officer may be tasked with enforcement of traffic law but is generally not liable for any particular violator that they do not catch.

The same is true with a building inspector. The inspector would generally have no obligation to detect a particular code violation.

105

Public Duty Doctrine

In 2004 a bill was introduced in the legislature to limit jurisdictional liability for the misconduct of current or former public officials. The intent was to hold those officials personally liable while providing immunity for their employers.

HB 2881 did not make it to committee but has been resurrected almost every year since.

106

Public Duty Doctrine

Current legal doctrine holds that the employer is generally liable for an employee's tortuous acts.

The employee however may still be held personally liable for misconduct but generally will not hold personal liability if found to be acting "in good faith and without malice."

No other state has as complete of a waiver of immunity as Washington.

Public Duty Doctrine

Over time, the courts in Washington have moved away from the original application of the Public Duty Doctrine, eroding the protections offered under an ever growing amount of caselaw.

To understand the extent of immunity, it's necessary to dissect the tenants of the public duty doctrine and how the higher courts have interpreted the law in this regard.

Public Duty Doctrine – Four General Exceptions

There are four general conditions which may eliminate public duty doctrine protection. Remember, an employee may also be held liable for events not protected by public duty doctrine principles.

Exception #1: Legislative Intent



5

Public Duty Doctrine – Four General Exceptions

Exception #1: Legislative Intent

Where the legislative body (state legislature, county council, (etc) specifies an intent to protect a particular class of persons.

If the governing code states there is intent to protect a class of persons you may be held liable for failure to do so.

(Moore v. Wayman – 1997)

Public Duty Doctrine – Four General Exceptions

Exception #2: Failure to Enforce

When governmental entity:

1. knows of an actual violation, and

2. is tasked with enforcing regulations concerning the violation, and

3. and the law is written to protect a particular class of persons.

All three elements must be present for a "failure to enforce" action.

Public Duty Doctrine – Four General Exceptions

Exception #3: Rescue Doctrine

Where government agents fail to exercise reasonable care to an assumed duty or fail to warn or aid.



6

Public Duty Doctrine – Four General Exceptions

Exception #3: Rescue Doctrine

Where government agents fail to exercise reasonable care to an assumed duty or fail to warn or aid.

Exception #4: Special Relationship

Where there is direct contact, assurances given and those assurances are relied upon.

13

Public Duty Doctrine – Failure to Enforce Exception

In 1983 a tenant (Mr. Waite), attempts to a light propane furnace in the basement of his rental home. An explosion results, knocking the house off of its foundation and burning Mr. Waite over 40% of his body.

Whatcom County inspection records indicate inspector Frey approved the propane furnace installation in 1981. Records also indicate Frey knew this was a propane furnace.

Waite v. Whatcom County - 1989

14

Public Duty Doctrine – Failure to Enforce Exception

Frey died before the case went to court however; both the Public Works Director and the Administrative Assistant to Public Works Director had conversations with Frey about this incident and so testified.

Waite v. Whatcom County - 1989

15



Public Duty Doctrine – Failure to Enforce Exception

Both testified that while the inspector could not remember the particular inspection, the inspector appeared dismayed that he had approved a propane furnace in a basement.

Inspector Frey had also told them that he knew the UMC prohibited such an installation.

Waite v. Whatcom County - 1989

Public Duty Doctrine – Failure to Enforce Exception

Mr. Waite files suit for damages against Whatcom County.

Whatcom County superior court dismisses Waite's claim against the county based on the public duty doctrine. The Waite's appeal.

Waite v. Whatcom County - 1989

Public Duty Doctrine – Failure to Enforce Exception

Waite's argue that the failure to enforce exception to the public duty doctrine applies.

Three distinct elements must be proven in order for a failure to enforce claim to prevail.

Waite v. Whatcom County - 1989

Public Duty Doctrine – Failure to Enforce Exception

Element #1: There must be actual knowledge of a violation.

Frey's inspection record and his subsequent statements to others demonstrated that he knew the furnace was propane, and knew that propane furnaces in basements were prohibited by code.

Waite v. Whatcom County - 1989

Public Duty Doctrine – Failure to Enforce Exception

Element #2: There must be a responsibility to enforce.

Whatcom County did not argue that Frey had a responsibility to enforce the provisions of the UMC.

Waite v. Whatcom County - 1989

Public Duty Doctrine – Failure to Enforce Exception

Element #3: The code provision must be intended to protect a particular class of persons.

The UMC clearly stated that it was intended to protect users and occupants of buildings. *This broad language about "users" or "occupants" would generally not prevail in a public duty doctrine case. The state supreme court ruled that it is adequate however in a failure to enforce claim.*

Waite v. Whatcom County - 1989

Ruling | Whatcom County was held liable for damages.



Public Duty Doctrine – Failure to Enforce Exception

In 2002 a homeowner secured a permit from the City of Olympia to install a new roof and add two new bedrooms to her home.

After remodel the house is put up for sale. Prospective buyers hire Roy Erickson of Tri-County Home Inspection who reports "wood destroying organisms and a host of other serious construction defects, many involving recently done construction."

Johnson v. City of Olympia - 2007

112

Public Duty Doctrine – Failure to Enforce Exception

Home inspector Erickson also noted that "any qualified and competent . . . inspector would have observed that there was overwhelming evidence of active wood destroying organisms and conducive conditions at the house. The evidence was not latent or hidden."

Johnson v. City of Olympia - 2007

113

Public Duty Doctrine – Failure to Enforce Exception

The prospective buyer backs out of the sale then contacts City of Olympia to tell them about construction defects in the home.

In 2003 another buyer was found. The buyer (Mr. & Ms. Johnson), hired Karen Swigert of Up Close Home Inspection to inspect the house.

Johnson v. City of Olympia - 2007

114



Public Duty Doctrine – Failure to Enforce Exception

Ms. Swagert (home inspector) reported that there were no wood destroying organisms and that construction defects noted in the previous report were not serious.

The Johnsons agree to purchase the home based upon Swagert's report.

Johnson v. City of Olympia - 2007

115

Public Duty Doctrine – Failure to Enforce Exception

One month after the sale, Johnson's insurance company informs them of impending cancellation unless structural defects in the home are corrected.

Johnsons contact the City of Olympia. The City sends two inspectors to look at the alleged defects.

Johnson v. City of Olympia - 2007

116

Public Duty Doctrine – Failure to Enforce Exception

The first City of Olympia inspector had been involved with the original permitted bedroom additions and found nothing wrong.

The second inspector (Building Official Cole) had concerns and allegedly told the Johnsons not to sleep in the bedrooms until emergency repairs were done.

The Johnson's sue the seller, contractor and home inspector Swagert.

Johnson v. City of Olympia - 2007

117



Public Duty Doctrine – Failure to Enforce Exception

Because the structure (including the new additions) was determined to in danger of imminent collapse the building was deemed uninhabitable and emergency repairs were ordered to be undertaken.

Johnson v. City of Olympia - 2007

118

Public Duty Doctrine – Failure to Enforce Exception

During the pretrial discovery process it was learned that the original home inspector who had discovered the construction defects, contacted the City to inform them of his concerns.

When the Johnson's learned that the City had previous knowledge but had taken no action, they named the City as an additional defendant in their law suit.

Johnson v. City of Olympia - 2007

119

Public Duty Doctrine – Failure to Enforce Exception

The Johnson's retained a contractor and engineer. With Building Official Cole's help, emergency repairs were designed and performed.

The City later denied that it had said the building was dangerous or told the Johnsons they could not occupy the home.

Johnson v. City of Olympia - 2007

120



Public Duty Doctrine – Failure to Enforce Exception

In 2005 the City and private inspector Swagert moved for summary judgment. The City request was granted with judgment in it's favor under the public duty doctrine.

Swagert, as a private business enjoyed no such immunity so was denied summary judgment.

Johnson v. City of Olympia - 2007

Public Duty Doctrine | Does not apply to private entities. 181

Public Duty Doctrine – Failure to Enforce Exception

On appeal, the Johnson's could not prove that the City had prior knowledge of the construction defects. The City's original inspector had approved the construction (even with serious defects) so had no actual knowledge of a code violation which he was charged with enforcing.

Because element #1 (Actual knowledge of a violation) could not be proven, the City was held harmless.

Johnson v. City of Olympia - 2007

182

Public Duty Doctrine – Failure to Enforce Exception

A Town of Forks police officer encounters an obviously intoxicated man during a response to an altercation at a lounge.

The officer orders the man out of the area and watches him drive away in his pickup truck.

Bailey v. Town of Forks - 1987

183

Public Duty Doctrine – Failure to Enforce Exception

A short distance later, the driver of the pickup makes a left turn in front of an oncoming motorcycle. The impact kills the motorcycle operator and seriously injures the motorcycle passenger (Bailey).

Bailey sues Town of Forks saying the officer owed her a specific duty due to his earlier encounter with the intoxicated driver and then allowing the driver to leave the scene in a motor vehicle.

Bailey v. Town of Forks - 1987

How do you think the court ruled on this case?

Public Duty Doctrine – Failure to Enforce Exception

Both the trial court and the court of appeals ruled against Bailey based upon the public duty doctrine.

The State Supreme Court however, ruled that because there is specific law (RCW 46.61.515) requiring police to take custody of drunks in public, there was a specific duty owed. The case was remanded back for trial whereupon Bailey was awarded damages.

Bailey v. Town of Forks - 1987

Public Duty Doctrine – Failure to Enforce Exception

Conrad Pierce agreed to rent a home with the intent to purchase it later. The prior renter had not paid the propane bill so the company owning the tank removed it and severed the propane line to the home.

Mr. Pierce secured permits from Yakima County for a new tank and line to the house.

Pierce v. Yakima County - 2011



Public Duty Doctrine – Failure to Enforce Exception

The County has a self-certification program in place for pressure testing installation of propane tanks and piping systems.

In this case, the installer tested the piping to the exterior wall of the house where a shut-off valve was already installed.

The piping inside the building was not tested or leak checked as required by NFPA 54 whenever service is interrupted.

Pierce v. Yakima County - 2011

107

Public Duty Doctrine – Failure to Enforce Exception

The County inspectors approved the installation of the tank and propane line serving the home.

One of the inspectors (one was a Fire Marshal for the tank, the other a mechanical inspector for the pipe) tells Mr. Pierce "It looks like everything is done. You are good to go."

Pierce v. Yakima County - 2011

108

Public Duty Doctrine – Failure to Enforce Exception

There were at least two B-vents penetrating the home's roof as well as a direct vent penetrating the exterior wall close to where the propane pipe entered the building.

Both the propane installers' and the county's inspectors stated in deposition that they had no knowledge of any existing appliances inside the building so stated that there was no reason to inspect interior piping.

Pierce v. Yakima County - 2011

109



Public Duty Doctrine – Failure to Enforce Exception

About a month later, Mr. Pierce decided to start heating the home. There was a small freestanding propane heater already in the home. The heater was served by a direct vent that terminated between 1'-2' from where the gas pipe entered the home.

Pierce turned on the propane valve outside the house and after several failed attempts to get the heater to light, Pierce went about doing some housework.

Pierce v. Yakima County - 2011

100

Public Duty Doctrine – Failure to Enforce Exception

Unknown to Pierce there had once been an attic furnace in the house. The furnace was removed by unknown persons and the propane pipe serving it was left uncapped.

Approximately 30 minutes after Pierce suspended his attempts to light his heater, the house exploded.

Pierce v. Yakima County - 2011

Inspire! Lead by example or get back into middle of the herd. 101

Public Duty Doctrine – Failure to Enforce Exception

Mr. Pierce was critically injured, losing most of the fingers on both hands and with third degree burns over his entire body above the waist. While he was not expected to live, after several surgeries and many months in intensive care he was released from the hospital. Due to the severe nature of his injuries he will be unable to work for the remainder of his life.

Pierce v. Yakima County - 2011

Inspire! Lead by example or get back into middle of the herd. 102



Public Duty Doctrine – Failure to Enforce Exception

The propane company who had installed the new tank and new gas line to the house settled out of court.

They admitted that their installer had not followed NFPA 54 leak testing requirements and that in fact he had misused the manometer when testing the new pipe.

The third error was testing the new pipe with propane rather than air.

Pierce v. Yakima County - 2011

Public Duty Doctrine | Does not apply to private entities. 183

Public Duty Doctrine – Failure to Enforce Exception

Yakima County claimed immunity under the public duty doctrine. Mr. Pierce contended that the county failed to assure NFPA 54 testing protocols had been performed so should be held liable.

The County countered by stating that due to their self-certification program, they had not been negligent.

Pierce v. Yakima County - 2011

Public Duty Doctrine – Failure to Enforce Exception

Mr. Pierce countered that there was no written criteria or list of expectations for propane installers to self certify and therefore the county was responsible for allowing self certifications without setting up ground rules.

The Washington State Court of Appeals found the county failed to note or cause correction for at least three code violations.

Pierce v. Yakima County - 2011

Ruling | Whatcom County was held liable for damages. 186



Public Duty Doctrine – Failure to Enforce Exception

Violations noted by the Court of Appeals:

1. Introduction of propane into the system before the system was approved.
2. Testing the exterior piping with propane.
3. Connection of the exterior piping without inquiry as to the integrity of the interior pipe system.

Pierce v. Yakima County - 2011

How do you think the court ruled on this case?

186

Public Duty Doctrine – Failure to Enforce Exception

The Court stated: "However, the critical issue is not whether there were code violations which were ignored or passed over, but instead whether or not the building code mandated corrective action by the Building Official.

The court determined that there was no language in the applicable codes that mandated corrective action be taken by the Building Official when a code violation is found.

Pierce v. Yakima County - 2011

The case against Pierce County was dismissed.

187

Public Duty Doctrine – Failure to Enforce Exception

Without a requirement to take action, there is no duty owed and therefore no liability assumed.

Because there is no statutory requirement to take corrective action there is no duty to enforce and therefore no breach under the "Failure to Enforce" exception of the public duty doctrine.

Pierce v. Yakima County - 2011

188



Public Duty Doctrine – Failure to Enforce Exception

The Court ruled that such a mandate does not exist when the Building Official has broad discretion regarding whether to act or how to act. Such discretion is created due to the lack of specificity in the administrative chapters of the state's building codes.

Pierce v. Yakima County - 2011

19

Public Duty Doctrine – Failure to Enforce Exception

Mr. Pierce argued that IRC § R109.1 mandates specific action as follows:

"For onsite construction, from time to time the building official, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve the portion of the construction as completed or shall notify the permit holder wherein the same fails to comply with this code."

Pierce v. Yakima County - 2011

20

Public Duty Doctrine – Failure to Enforce Exception

The County responsively argues the IRC vests building officials with discretion to enforce the code but does not place upon them a specific enforcement obligation.

The County's contention was that the Building Official is authorized to enforce the code but not required to do so.

Pierce v. Yakima County - 2011

21



Public Duty Doctrine – Failure to Enforce Exception

The County cites IRC section R111.3 which provides that when an official observes a code violation, it "shall have the authority to authorize disconnection," and IRC section R113.2 which provides that the building official "is authorized" to serve a notice of violation or order where a building or structure is in violation of code."

Pierce v. Yakima County - 2011

22

Public Duty Doctrine – Failure to Enforce Exception

The Court of Appeals stated that without a specific duty to conduct inspections or a specific duty to require corrective action once code violations are found, there is no breach so no assumed liability.

The State Supreme Court concurred. Yakima county was found not liable.

Pierce v. Yakima County - 2011

Inspire! Lead by example or get back into middle of the herd. 23

Public Duty Doctrine – Failure to Enforce Exception

Bellevue – 1971

- Dead racoon found in stream.
- Person fishing out racoon is severely shocked when entering the stream.
- Bellevue electric inspector sent to investigate.
- Inspector finds underwater lights in stream and extremely poor wiring methods.

24



Public Duty Doctrine – Failure to Enforce Exception

Bellevue – 1971

- Inspector traces wire to a house and knocks on door.
- Owner is ordered to turn off applicable circuit breaker and tape in in closed position until wiring is removed.
- Owner does as directed but does not remove the wiring.
- Owner subsequently rents out the house.

26

Public Duty Doctrine – Failure to Enforce Exception

Bellevue – 1971

- New tenant wants to use the garage door opener to move in.
- Opener is on same circuit as the underwater lights.
- Tenant not knowing about the lights turns on the breaker.
- Later, a child downstream is shocked playing in the creek.

27

Public Duty Doctrine – Failure to Enforce Exception

Bellevue – 1971

- Mother hears screams and along with a sibling child rushes to the creek to rescue the child.
- The original shocked child escapes the creek but mother and sibling are killed. Here comes the law suit....

Audience question... this went to the State Supreme Court. How do you think they ruled?

28



Public Duty Doctrine – Failure to Enforce Exception

Bellevue – 1971

- Normally there be no liability to the City however;
- Bellevue's electric code required that when an inspector discovered dangerous wiring they were to physically disconnect such wiring. Turning off a breaker is not a physical disconnection.

28

Public Duty Doctrine – Failure to Enforce Exception

Bellevue – 1971

- Because Bellevue's ordinance imposed a duty and the inspector failed to enforce that duty, Bellevue was held liable for the two deaths.

29

Public Duty Doctrine – Legislative Intent Exception

This case arises out of the purchase of a house that was so badly constructed that the buyers believe it is uninhabitable.

The Moore's as purchasers of a new home sue the builders (Susan Wayman and Darius Willett DBA Great Habitations), Pierce County, the realtors who sold them the home, the appraiser, and an adjacent property owner.

Moore v. Wayman - 1997

30

Public Duty Doctrine – Legislative Intent Exception

At trial, the only claim remaining was the builders' cross-claim against the County for negligent inspection, which the builders had assigned to the buyers.

All other parties had settled with the Moore's.

Moore v. Wayman - 1997

21

Public Duty Doctrine – Legislative Intent Exception

The original trial court found Pierce County liable for negligent inspection.

The jury found that the County was negligent in its inspection of the house and that this negligence was the proximate cause of 85 percent of the buyers' economic and non-economic damages, while the builders were liable for 15 percent of the damages.

Moore v. Wayman - 1997

22

Public Duty Doctrine – Legislative Intent Exception

The county appeals based upon public duty doctrine immunity. The County moved for judgment as a matter of law, claiming that the builders failed as a matter of law to establish the elements of the special relationship exception.

Moore v. Wayman - 1997

23



Public Duty Doctrine – Legislative Intent Exception

Moore countered that plan review approval, issuance of a permit and subsequent inspection approvals created a special relationship between he and the county.

Moore contended that therefore the county owed him a specific duty to assure the house complied with building codes.

Moore v. Wayman - 1997

24

Public Duty Doctrine – Legislative Intent Exception

Moore testified that while he expected the inspector to inform him of any code violations, he did not specifically ask the inspectors any questions about code status during the construction process.

Moore's testimony in this regard is extremely important to how we, as code officials, communicate with our customers.

Moore v. Wayman - 1997

25

Public Duty Doctrine – Legislative Intent Exception

During testimony, Pierce County Inspector Tillman testified that he would note corrections on his inspection form and if those corrections did not show up on a subsequent inspection request, he assumed they had been resolved so no longer looked for them. He further testified that he could not recall a specific inquiry from the builder about any code related item.

Moore v. Wayman - 1997

26



Public Duty Doctrine – Legislative Intent Exception

The court of appeals ruled that plan review and subsequent issuance of a permit does not implicitly imply that the plans submitted are in compliance with all applicable codes. Nor do periodic building code inspections implicitly imply that the construction is in compliance with all applicable codes. Building permits and building code inspections only authorize construction to proceed; they do not guarantee that all provisions of all applicable codes have been complied with.

Moore v. Wayman - 1997

27

Public Duty Doctrine – Legislative Intent Exception

After the court ruled that plan review and inspections do not create a "special relationship" the buyers argue that even without a "special relationship" there is a duty to them based upon both the legislative intent and the failure to enforce exceptions.

Moore v. Wayman - 1997

28

Public Duty Doctrine – Legislative Intent Exception

Failure to enforce was not shown as the plaintiff could not demonstrate that the county inspectors actually knew a non-corrected code violation existed.

Special relationship could not be demonstrated because the inspector had given no direct assurances of code compliance to the purchasers of the new home.

Moore v. Wayman - 1997

29



Public Duty Doctrine – Legislative Intent Exception

The only outstanding claim at this point was legislative intent. Was there legislative intent to protect the Moore's by virtue of them being members of a particular class of persons?

The Court of Appeals ruled that the legislature would have needed to show that the code was intended to protect a certain class and that the jurisdiction demonstrated "culpable neglect regarding, or indifference to" violations of the building code."

Moore v. Wayman - 1997

How do you think the court ruled on this case?

Public Duty Doctrine – Legislative Intent Exception

It was determined by the Court that RCW 19.27 has no legislative intent to protect a certain class of persons but instead is intended to promote health and safety to the general public.

The justices stated in their opinion: "If the Legislature wanted to impose liability upon counties and cities for failure to enforce the uniform building code, it would have plainly spoken." There was no finding of legislative intent.

Moore v. Wayman - 1997

The case against Pierce County was dismissed.

Public Duty Doctrine – Special Relationship Exception

On January 12, 1979, the King County Department of Building and Land Development (BALD) received an application for a building permit from Chaussee Corporation accompanied by two sets of plans and specifications for construction of the 136-unit Woodside Terrace Condominiums.

Zimbelman v. Chaussee Corp. - 1989

Public Duty Doctrine – Special Relationship Exception

A plans examiner from BALD noted several very significant code violations on the plans including but not limited to:

1. Lack of fire alarms;
2. Inadequate exits;
3. Lack of fire resistant materials (1-hour construction.)

Zimbelman v. Chaussee Corp. - 1989

25

Public Duty Doctrine – Special Relationship Exception

BALD issued the permits with the stipulation that the items noted be corrected prior to construction proceeding to the point that the violations would be included in the construction.

On July 17, 1979, a BALD inspector visited the building site. Although the building permit had been issued only 4 days earlier, construction was approximately 40 percent complete.

Zimbelman v. Chaussee Corp. - 1989

The "No good deed goes unpunished" doctrine is about to rear it's ugly head.

Public Duty Doctrine – Special Relationship Exception

The inspector did not note any deficiencies in the construction. He did not attempt to verify if the previously noted deviations from the UBC had been corrected.

After construction was completed, BALD issued Certificates of Occupancy for each of the condominium buildings.

Zimbelman v. Chaussee Corp. - 1989

25

Public Duty Doctrine – Special Relationship Exception

In 1983, Michael Stanley, the property manager of the Woodside Terrace Condominium Homeowner Association, sued Chaussee Corporation, two subcontractors King County, and eight named individuals, alleging the condominiums had been negligently and defectively constructed.

Zimbelman v. Chaussee Corp. - 1989

26

Public Duty Doctrine – Failure to Enforce Exception

In February 1986, Ervin Zimbelman and 34 other individuals filed a separate, but virtually identical suit against Chaussee, its subcontractors, King County and others. The County moved for summary judgment in both cases.

Both cases against the county were dismissed by summary judgement.

Zimbelman v. Chaussee Corp. - 1989

27

Public Duty Doctrine – Failure to Enforce Exception

On appeal, the Court cited Taylor v. Stevens County where "the "duty to ensure that buildings comply with county and municipal building codes rests with individual builders, developers and permit applicants, not local government."

However, the court identified two narrow exceptions to the general rule of nonliability.

Zimbelman v. Chaussee Corp. - 1989

28



Public Duty Doctrine – Failure to Enforce Exception

A "special relationship", giving rise to a duty of reasonable care when a public official provides information, is created between a plaintiff and official when:
1. There is direct contact between the public official and the plaintiff;
2. The official, in response to a specific inquiry, provides express assurances that a building or structure is in compliance with the building code; and
3. The plaintiff justifiably relies on the representations of the official.

Zimbelman v. Chaussee Corp. - 1989

228

Public Duty Doctrine – Special Relationship Exception

"Appellants did not satisfy any of the three conditions and, therefore, do not fall under this exception. All three items must be in place to invoke liability to the jurisdiction (under the special relationship exception).

Additionally, the appellants claim the buildings were inherently dangerous due to lack of alarms, exists and fire-resistive construction."

Zimbelman v. Chaussee Corp. - 1989

Language in quotes is language from the Court of Appeals.

228

Public Duty Doctrine – Special Relationship Exception

"Under TAYLOR, a public official must possess actual knowledge of a hazardous condition before any duty is imposed.

Knowledge does not include what an official might have known if he had performed his duties more effectively or vigilantly.

Each of the cases cited in TAYLOR in support of this exception involved actual personal knowledge."

Zimbelman v. Chaussee Corp. - 1989

"Taylor" means "Taylor v. Stevens County."

229



Public Duty Doctrine – Special Relationship Exception

"Hence, personal knowledge of an inherently dangerous and hazardous condition by one enforcing the building code is required to create a duty to act."

The determinative factor was "what knowledge did the county actually have?" The appellants claim that the submission of plans showing a lack of safeguards against fire demonstrates actual knowledge of an inherently dangerous and hazardous condition. The Court disagreed.

Zimelman v. Chaussee Corp. - 1989

How do you think the court ruled on this case?

282

Public Duty Doctrine – Special Relationship Exception

The County denied that these conditions are inherently dangerous. The Court assumed appellants' contrary allegations create an issue of fact on motion for summary judgment as to whether the conditions were "inherently dangerous."

In essence the Court ruled that lack of fire protective measures in of itself did not create an inherently dangerous condition.

Zimelman v. Chaussee Corp. - 1989

283

Public Duty Doctrine – Special Relationship Exception

The Court further determined that submission of defective plans did not constitute knowledge that the deficiencies were incorporated into the actual construction of the project.

Awareness of code violations in the plans as submitted only establishes knowledge of defective plans, not knowledge of defective construction.

Zimelman v. Chaussee Corp. - 1989

284



Public Duty Doctrine – Special Relationship Exception

The affidavit of the building inspector stated that he did not have actual knowledge of code violations.

Without such knowledge the Court determined that King County was not liable based upon the Public Duty Doctrine.

Zimbelman v. Chaussee Corp. - 1989

26

Public Duty Doctrine – Special Relationship Exception

To use "special relationship" as a means to circumvent Public Duty Doctrine protections, a plaintiff must show each of three elements:

1. direct contact between the public official and the plaintiff which sets the plaintiff apart from the general public, and

2. an express assurance given by the public official, which

3. gives rise to a justifiable reliance on the part of the plaintiff.

Can anyone think of an example where a special relationship might be created?

26

Public Duty Doctrine – Special Relationship Exception

A developer inquires as to the zoning of a piece of property and particularly if apartments could be built on the property.

The City building inspector states that the land is zoned multi-family so yes, apartments would be allowed.

The developer buys the land and is issued permits to build apartments.

Rogers v. City of Toppenish - 1979

27



Public Duty Doctrine – Special Relationship Exception

After receiving complaints the city realizes the zoning is for one or two family buildings only so rescinds the building permit.

The Washington State Supreme Court ruled against the building inspector and the city. Both were held liable for misrepresentation based on a duty owed to the individual who asked for zoning information.

Rogers v. City of Toppenish - 1979

LUPA | Did not exist at the time or this case may have turned out differently. 20

Public Duty Doctrine – Failure to Enforce Exception

In 1994, Deasunda Williams decided to remodel her Olympia residence. She hired Leonard Trabka as a general contractor. Trabka subcontracted the foundation work to Gary and Roy Palm.

Trabka was concerned about the work and instructed Williams not to have her mortgage company pay the Palms until the County approved the work.

Williams v. Thurston County - 2000

20

Public Duty Doctrine – Failure to Enforce Exception

On October 4, 1994, a Thurston County building inspector approved the foundation work.

Trabka explained:
"I was concerned that their work had been approved. I called and spoke with the inspector. I asked if the foundation work was built to county standards. I was assured that it had been so constructed."

Williams v. Thurston County - 2000

20



[illegible]

Public Duty Doctrine – **Special Relationship Exception**

Butler acknowledged that the first inspector should have discovered the defects and ordered their repair. That inspector was subsequently fired.

Williams then sued the County, seeking the difference in costs in repairing the foundation work initially, rather than after the building was constructed upon it.

Williams v. Thurston County - 2000

Public Duty Doctrine – **Special Relationship Exception**

Thurston County moved for summary judgment, claiming that it was protected by the public duty doctrine.

Williams responded, arguing that the interaction between Trabka and the first inspector created a special relationship exception to that doctrine. The trial court granted Thurston County's motion. Williams appeals.

Williams v. Thurston County - 2000

[illegible]

Public Duty Doctrine – Special Relationship Exception

Court of Appeals: "Trabka's inquiry and the County's response were general, not specific. As the Taylor court noted: 'building permits and building inspections only authorize construction to proceed; they do not guarantee that all provisions of all applicable codes have been complied with.'"

Despite the poorly performed inspection being so egregious that the inspector was fired, there was no liability to the County.

Williams v. Thurston County - 2000

Public Duty Doctrine – **Special Relationship Exception**

J&B Development applied for a permit to construct a new home. The permit technician processing the application missed a required 18' setback. The setback was specific to this property due to the narrow road serving the neighborhood.

The inspector approved the project through the floor system. When walls were stood, the neighbors complained about the setback not being met.

J&B Development v. King County - 1983

Public Duty Doctrine – Special Relationship Exception

Once notified, King County revoked the permit and issued a stop work order.

The Washington State Supreme Court found the County liable as by issuing the permit, the County created a special relationship with J&B Development.

J&B Development v. King County - 1983

207

Public Duty Doctrine – Special Relationship Exception

The court further ruled that by issuing permits, building departments created a specific relationship with the permit holder, thereby owing them a specific duty.

This ruling created a scenario where permitting agencies were no longer protected by the public duty doctrine. This held true until 1987 when Taylor v. Stevens County was decided.

J&B Development v. King County - 1983

208

Public Duty Doctrine – Special Relationship Exception

In 1981 Harry and Robij Taylor entered into a contract to purchase a home from Harry and Mary Murray.

The Taylors learned that the house had been built without a permit. The sellers' real estate agent assured the Taylors that a permit would be obtained before closing the sale.

Taylor v. Stevens County - 1987

209



Public Duty Doctrine – Special Relationship Exception

On November 30, 1981, the sellers submitted a building permit application to Stevens County which indicated that the house was "unfinished". The realtor alleges that it prepared the building permit for the sellers.

Prior to issuing the permit, the Stevens County building inspector performed an inspection of the home.

Taylor v. Stevens County - 1987

20

Public Duty Doctrine – Special Relationship Exception

The inspector added the following note to the permit file:

"The basic structure appeared to be of adequate construction although cosmetic considerations were somewhat lacking. Overall the bldg appeared to be average of what may be expected in this area."

The permit was issued on December 7, 1981.

Taylor v. Stevens County - 1987

21

Public Duty Doctrine – Special Relationship Exception

On December 8, 1981, the buyers and the sellers entered into an "Executory Contract of Sale of Real Estate".

The sales agreement noted that the house was not fully completed and the buyers acknowledged that they had examined the premises and accepted it "as is".

Taylor v. Stevens County - 1987

22



Public Duty Doctrine – Special Relationship Exception

By 1983 the Taylors had discovered construction defects in their new home. They contacted the county's building inspector who performed an inspection and found numerous violations of the Stevens County building code.

The buyers brought action against the sellers, the realtor and the County. The sellers and the realtor cross-claimed against the County seeking indemnity should they be found liable to the buyers.

Taylor v. Stevens County - 1987

23

Public Duty Doctrine – Special Relationship Exception

In essence, the buyers and the realtor claim that the County was negligent for having issued the building permit because consummated plans, required by the county building code, did not accompany the permit application.

The permit had been issued "subject to field inspection" because the home had already been built.

Taylor v. Stevens County - 1987

24

Public Duty Doctrine – Special Relationship Exception

The Taylors and the realtor further allege that the County negligently performed the "special investigation" in that the inspector failed to discover that the house had not been built in compliance with the building code.

The State Supreme Court ruled based on specific language contained in RCW 19.27.

Taylor v. Stevens County - 1987

25



Public Duty Doctrine – *Special Relationship Exception*

In the ruling, the Court cited the State Building Code Act (RCW 19.27) which stated:

The purpose of this chapter is to provide building codes throughout the state. This chapter is designed to effectuate the following purposes, objectives and standards: (1) To promote the health, safety and welfare *of the occupants or users of buildings and structures and the general public.*

Taylor v. Stevens County - 1987

[illegible]

Public Duty Doctrine – **Special Relationship Exception**

The Court stated that in numerous previous cases it had been decided that building codes do not impose a duty on government to enforce codes for the benefit of individuals.

Rather, the courts have ruled that issuance of building permits and subsequent inspection approvals are for the benefit of the public at large, not the individual.

Taylor v. Stevens County - 1987

Public Duty Doctrine – **Special Relationship Exception**

The Taylors argued that based upon *Halvorson v. Seattle*, permits and inspections are also intended to protect occupants of buildings. The supreme court rejected that argument because in *Halvorson*, the City of Seattle mentioned in their housing code ordinance, the declaration of purpose specifically called out the intent to protect occupants (legislative intent).

Taylor v. Stevens County - 1987

Public Duty Doctrine – Special Relationship Exception

Additionally, *Halvorson* requires that an injured plaintiff show "culpable neglect regarding, or indifference to" violations of the building code.

The requirement was met in *Halvorson* with allegations that the City had actual and long-standing knowledge of noncompliance with the Seattle Housing Code. There is no evidence of such culpability in the Taylor v. Stevens County case.

Taylor v. Stevens County - 1987

29

Public Duty Doctrine – Special Relationship Exception

The widow of a man who died in a hotel fire brought this wrongful death action against the owners of the hotel and a municipality alleging the latter defendant failed to enforce applicable building and fire codes.

King County superior court dismisses Mrs. Halvorson's case against the City of Seattle based on her claim not seeking a specific relief from the supposed wrong doing of the City.

Halvorson v. Dahl - 1978

30

Public Duty Doctrine – Special Relationship Exception

State Supreme Court reverses the superior court decision stating that in fact the plaintiff states a claim upon which relief could be granted.

During trial Mrs. Halvorson stated the City of Seattle housing code intended to protect a particular class of people rather than just the public at large.

Halvorson v. Dahl - 1978

31



Public Duty Doctrine – Special Relationship Exception

The court ruled that because the ordinance adopting Seattle's housing code specifically stated that it was intended to protect occupants of buildings and to the public, the ordinance indeed created a protected class separate from the public.

The words "and to the public" showed legislative intent that occupants of buildings were to be treated as a specific class of persons and thereby a special relationship was created.

Halvorson v. Dahl - 1978

22

Public Duty Doctrine – Special Relationship Exception

Legislative intent of a protected class was not on its own adequate reason to award damages.

The court ruled that there must also demonstrable culpable neglect regarding, or indifference to, that noncompliance.

Halvorson v. Dahl - 1978

23

Public Duty Doctrine – Special Relationship Exception

Facts presented at trial included:

Violations of the housing code over a six year period prior to the fatal fire and;

Seattle's lack of follow through to bring non-compliant conditions into legal status and;

The specific non-compliant conditions being contributory to the cause or spread of the fire.

Halvorson v. Dahl - 1978

24



Public Duty Doctrine – Special Relationship Exception

The case was remanded for trial with subsequent award of damages to Mrs. Halvorson.

Had Seattle's housing code not created a special class to be protected, there would have been no finding of culpability against the City.

Halvorson v. Dahl - 1987

26

Public Duty Doctrine – Special Relationship Exception

Question:
Is it your responsibility when issuing a permit to identify all "project killers"?

Answer:
Maybe

Meaney v. Dodd - 1987

26

Public Duty Doctrine – Special Relationship Exception

Dodd is issued a permit to install and operate a semi-portable saw mill. The project was reviewed under SEPA.

SEPA checklist states that a slight increase in noise is expected from sawmill operations.

In the fall of 1983 a close by neighbor (Meaney) sues both Skagit County and Dodd based on noise violations.

Meaney v. Dodd - 1987

27



Public Duty Doctrine – Special Relationship Exception

The pending litigation causes Skagit County to make several trips to Dodd's operation. Testing determines the sawmill noise exceeds county code limits of 55 db.

Dodd realizes that he cannot continue operation while meeting the 55 db noise limit so subsequently closes his business. Meaney's lawsuit is dismissed after Dodd closes the business.

Meaney v. Dodd - 1987

28

Public Duty Doctrine – Special Relationship Exception

Dodd files suit against Skagit County for not telling him what the noise limits were during the permitting process. Dodd claims had he known of such strict noise regulations he would not have gone through the substantial expense of opening a sawing operation.

The trial court dismisses Dodd's claims. Alleging that the County owed no specific duty to Dodd under the Public Duty Doctrine.

Meaney v. Dodd - 1987

29

Public Duty Doctrine – Special Relationship Exception

The appeal court determined that a special relationship was created between Dodd and Skagit County, therefore effectively eliminating public duty doctrine immunity. The court's reasoning is as follows:

1. The County is the only governmental body empowered to grant or deny special use permits.

Meaney v. Dodd - 1987

30



Public Duty Doctrine – Special Relationship Exception

2.The issuance of a special use permit inherently implies that the issuing agency has verified that the proposed use complies with the applicable provisions of the county code.

3.Dodd knew that he could take no action without the approval of the Department.

Meaney v. Dodd - 1987

271

Public Duty Doctrine – Special Relationship Exception

4.Moreover, the subsequent inspections, hearings and reaffirmation by the Department reinforced Dodd's reliance on the validity of the permit.

5.He could and justifiably did rely upon the accuracy of the permit, subsequently suffering an economic loss due to the Department's overlooking a significant noise limit in the code.

Meaney v. Dodd - 1987

272

Public Duty Doctrine – Special Relationship Exception

The County argued that it had no duty to inform Dodd about the noise limit because he gave it no information that the increase in the noise level would be more than minimal.

The court ruled that sawmills are notorious for making noise, and this proposal was likely to cause a significant noise level increase. Dodd's representation regarding the noise level increase was probably correct as far as semiportable sawmills go.

Meaney v. Dodd - 1987

273



Public Duty Doctrine – Special Relationship Exception

The court also determined that noise levels are subject to specific rules in the code, which the County was charged with enforcing. The primary function of the Department is to grant permits for only those uses allowed by the code.

Meanev v. Dodd - 1987

274

Public Duty Doctrine – Special Relationship Exception

Based upon the J&B Development v. King County case, the court stated "The duty of the County was to exercise reasonable care in issuing a valid use permit, and the trial court erred in concluding otherwise.

The case was remanded back for trial and the county eventually paid damages to Dodd for improper issuance of the permit.

Meanev v. Dodd - 1987

275

Public Duty Doctrine – Conclusions & Assumptions

Question:

Can you identify the common threads in these court cases?

What recommendations would you offer your jurisdiction based on these cases?

276

Public Duty Doctrine – **Conclusions & Assumptions**

During the permit review process you are responsible for clarifying ambiguous statements or may be held liable for the result (Meaney v. Dodd).

You are not obligated to verify that inspection corrections have been made unless your ordinance has created a protected class (Halvorsen v. Dahl).

277

Public Duty Doctrine – **Conclusions & Assumptions**

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Public Duty Doctrine – **Conclusions & Assumptions**

You are not generally responsible for violations you don't know about (*Johnson v. City of Olympia*).

You are not obliged to perform complete and accurate inspections unless your adopting ordinance states otherwise (*Pierce v. Yakima County*).

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Public Duty Doctrine – Conclusions & Assumptions

It is essential that you and your staff have a thorough understanding of which administrative duties are required and which are discretionary.

A poorly performed discretionary act will most likely not bring the same liability as a poorly performed ministerial act.

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Public Duty Doctrine – Conclusions & Assumptions

Regardless of the outcome, each jurisdiction that faces permit related litigation will pay to defend themselves.

Far more money is spent defending claims than paying for actual damages.

A typical superior court trial will cost your jurisdiction a minimum of \$100,000.00 to defend.

The best defense is to understand your legal responsibilities and act accordingly.

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Property Rights – **Arbitrary and Capricious Actions**

RCW 64.40
Damages from Government Actions

This law applies specifically to any permitting agency where a permit is required by law before an owner of a property interest may improve, sell, transfer, or otherwise put real property to use.

Property Rights – **Arbitrary and Capricious Actions**

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This law applies specifically to any permitting agency where a permit is required by law before an owner of a property interest may improve, sell, transfer, or otherwise put real property to use.

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This law applies specifically to any permitting agency where a permit is required by law before an owner of a property interest may improve, sell, transfer, or otherwise put real property to use.

Property Rights – Arbitrary and Capricious Actions

"Act" means a final decision by an agency which places requirements, limitations, or conditions upon the use of real property in **excess of those allowed by applicable regulations** in effect on the date an application for a permit is filed. "Act" also means the failure of an agency to act within time limits established by law in response to a property owner's application for a permit.

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RCW 64.40 - Damages from Government Actions



Plain View Doctrine

The doctrine dictates that three conditions must be met for seizing without warrant evidence in plain view: **Lawful presence, Lawful access, and Immediately apparent issue/item.**

- **Lawful presence**: The public official must be lawfully in a position from which to view the object
- **Lawful access**: The public official must have a lawful right of access to the object itself
- **Immediately apparent**: The object's unlawful character must be immediately apparent to the public official without any additional search.

Right of Entry (Broken Down)

4th Amendment:

- *The right of the people against unreasonable searches and seizures*
- *Warrants required, unless there is probable cause*

WSBC/WSRC Section R104.6/104.6:

- *Where it is necessary to make an inspection*
- *Reasonable cause exists*
- *(Occupied) Authorized to enter the structure or premises at reasonable times to inspect provided credentials are presented to the occupant and **entry requested**.*
- *(Unoccupied) First make a reasonable effort to locate the owner, the owner's authorized agent, or other person having charge or control of the structure or premises and **request entry**.*
- ***If entry is refused**, the building official shall have recourse to the remedies provided by law to secure entry.*

Plain View Doctrine

A duty to all is a duty to no one person

- Prior to this, jurisdictions were immune from tort claims. This enacted **RCW 4.9.6.010**, which explains when governmental entities can be held liable for damages due to tortious conduct
- **Tort**, meaning twisted in French, (intends to mean “wrong”): ***“is a wrongful act that results in damage to a person and/or property”***
- **Statute Law Duty**: applies to serving all, **laws in code, rules and ordinances**
- **Common Law Duty**: can mean a duty to a person in a specific situation (life threat), **laws through case law and precedence**
- Pay attention to **Norg vs Seattle** as a recent Nov 2024 appeal ruling may impact how public duty applies and moves forward in terms of **how jurisdictions respond after a prompting from the public.**

Plain View Doctrine

Reasonable expectation of privacy (Katz vs the US: Privacy infringement)

When a violation is identified, it **must be where the code compliance officer is legally allowed to be**:

- In general, the **path to the front door is a “public” path** and protected in terms of code compliance. With signage indicating no trespassing and no soliciting - **talk to your legal team**

Probable cause: example - a large lumber drop in a front yard (which I’ve seen numerous times) could mean a prompted conversation with the owner to request entry to investigate.

Drones: Review Long Lake Township vs Maxon’s (and Kyllo vs US)

- Vehicles viewed by drones as junk vehicles and part of the property as a junkyard
- Maxon’s viewed this as a 4th amendment violation and the appeals court ruled with the township
- If you use drones or decide to use drones for code compliance, then I recommend assuring your legal team leads that policy, as laws for drones are in their infancy.



Drones

Drone privacy laws stem from Katz vs the US. A very well-known case that is tied to many privacy laws in effect. The conviction stemmed from surveillance Katz was under while in a public phone booth, where the phone was tapped. In a 7-1 appeal ruling, it was determined that his presence in the phone booth wasn't under 4th amendment protection, but his private conversation was as it was his conversation that was used for prosecution.

Katz vs the US

Alaska vs John William Mckelvey III

Long Lake Township vs Maxon

Kyllo vs US



Drones: Katz vs the US (SCOTUS ruling)

- **1967**: Charles Katz was suspected of transmitting illegal gambling information through use of public payphones.
- **Federal agents placed a wire tap/recording device** on the phone booth Katz used, recording his conversations without a warrant.
- **Katz argued** that this warrantless surveillance violated his Fourth Amendment right against unreasonable searches and seizures.
- **The lower court ruled** that there was no physical intrusion into the phone booth, and that there was no violation of the Fourth Amendment.
- **The Supreme Court reversed the lower court's decision**, ruling 7-1 in favor of Katz. The Court famously declared, "the Fourth Amendment protects people, not places". The Court held that while, his (Katz) presence in the phone booth was not protected, his private conversation was.
- **This is where, a "reasonable expectation of privacy"** through opinions by Justice Potter Stewart and John Marshall Harlan was established and this has been the basis for other privacy rules and protections

Drones: Alaska vs McKelvey

Alaska vs John William McKelvey III (Alaska Supreme Court Decision): When this case began in 2012, John William McKelvey III lived on a property in a sparsely populated area just north of Fairbanks.

- The property was heavily wooded, had a single driveway leading to a clearing where a translucent greenhouse could be seen.
- Surrounding trees blocked ground-level view of the house and greenhouse from outside the clearing.
- A gate blocked cars from entering the driveway, and numerous signs warned potential visitors that they were not welcome.
- Alaska State Troopers received a tip that John McKelvey was growing marijuana. They flew over his property in a plane and used a camera with a telephoto lens to photograph inside his semi-opaque greenhouse. The photos, though not clear, were used to get a search warrant that led to drug and weapons charges
- McKelvey argued that the aerial photography was an illegal, warrantless search. The state countered that because small aircraft are common in Alaska, McKelvey should not have had a reasonable expectation of privacy from an aerial view.



Drones: Alaska vs Mckelvey

Court ruling (simplified):

- **The court rejected the state's argument.** The reasoning was that a high-powered zoom lens changes the nature of aerial observation, significantly. It is not equivalent to someone looking out of the window of an aircraft.
- **The justices were firm in the idea** that to allow law enforcement to conduct such enhanced surveillance without a warrant would have a "chilling effect" on Alaska residents sense of security in their private property.
- **The court affirmed that under the Alaska Constitution**, the right to privacy takes precedence over new technology. It was clear that constitutional rights do not become "subservient to technology".
- **The decision contrasts with previous U.S. Supreme Court rulings**, which allowed some forms of warrantless aerial surveillance in the 1980's. Legal experts noted that this could influence how other states view privacy in other states.



Drones: Long Lake Township vs Maxon

2007, the Township sued Todd Maxon for zoning ordinance violations, including operating an unlicensed junkyard by storing salvaged vehicles on the property. The parties settled.

2016, neighbors complained that they (Maxon's) were operating a junkyard again, the Township investigated, again.

Unable to view the Maxon property at ground level due to tree and building obstructions, the Township hired a contractor to take aerial drone shots.

On three occasions, the drone took bird's-eye view photographs and videos of the Maxons' property that confirmed the neighbors' reports.

The Township sued the Maxons for violating town ordinances, seeking to prohibit the Maxons' "salvaging activity."

In response, the Maxons filed a pretrial motion to exclude the drone shots under the Fourth Amendment and Michigan constitution.



Drones: Long Lake Township vs Maxon

In 2022 Michigan appeals court overruled the trial courts decision. This court established that searches of the curtilage (areas around the home on the property) are unreasonable absent a warrant, swiftly moving on to “whether defendants had an actual and reasonable expectation of privacy.”

This court also looked at Kyllo vs US determining that the use of:

“low-altitude, unmanned, specifically targeted drone surveillance of a private individual’s property is qualitatively different from past aerial searches held to be reasonable” - but the Michigan Supreme Court also avoided any answer to what “unreasonable searches” are.

This court offered several points of distinction: FAA regulations differ for drones; drones’ smaller size and closer proximity means they are “necessarily more intrusive, not as commonplace, as inadvertent, or as costly.” Also, they explained drone “maneuverability, speed, and stealth rendered them beyond the Framers’ expectations “not just in degree, but in kind.”

The Supreme Court vacated the Court of Appeals’ opinion and sent the case back, asking them to address the issue of *“whether the exclusionary rule applies to this dispute.”*

In 2024, the appeals court ruled that the evidence was permissible and the Maxon’s lost the case.



Drones: Kyllo vs US

- **In 1991**, A Department of the Interior agent, suspicious that Danny Kyllo was growing marijuana, used a thermal-imaging device to scan his triplex.
- The imaging was to be used to determine if the amount of heat emanating from the home was consistent with the high-intensity lamps typically used for indoor marijuana growth.
- Subsequently, the imaging revealed that relatively hot areas existed, compared to the rest of the home.
- Based on informants, utility bills, and the thermal imaging, a federal magistrate judge issued a warrant to search Kyllo's home. The search unveiled growing marijuana.
- After Kyllo was indicted on a federal drug charge, he unsuccessfully moved to suppress the evidence seized from his home and then entered a conditional guilty plea. Ultimately affirming, the Court of Appeals held that Kyllo had shown no subjective expectation of privacy **because he had made no attempt to conceal the heat escaping from his home**, and even if he had, there was no objectively reasonable expectation of privacy because the imager "did not expose any intimate details of Kyllo's life," only "amorphous 'hot spots' on the roof and exterior wall."



Drones: Kyllo vs US

- In a 5-4 opinion delivered by Justice Antonin Scalia, the Court held that:

“where, as here, the Government uses a device that is not in general public use; to explore details of the home that would previously have been unknowable without physical intrusion, the surveillance is 'search' and is presumptively unreasonable without a warrant.”

- The Court rejected the Government’s argument that the thermal imaging must be upheld because it detected only heat radiating from the home’s external surface. Such a mechanical interpretation of the Fourth Amendment was rejected in Katz, where the eavesdropping device in question picked up only sound waves that reached the exterior of the phone booth to which it was attached. Reversing that approach would leave the homeowner at the mercy of advancing technology—including imaging technology that could discern all human activity in the home.
- Also rejected is the Government’s contention that the thermal imaging was constitutional because it did not detect “intimate details.” Such an approach would be wrong in principle because, in the sanctity of the home, all details are intimate details.



Why Is There a Public Duty Doctrine?

The public duty doctrine is an outgrowth of the abolition of sovereign immunity for state and local governments by the Washington State Legislature in the 1960s. Prior to that, Washington local government entities were immune from tort (negligence) liability to the extent they were performing governmental (as opposed to proprietary) functions. The enactment of [RCW 4.96.010](#) changed that by providing:

All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct...to the same extent as if they were a private person or corporation.

Abolition of sovereign immunity made sense, but it raised other issues. One area the legislature did not specifically address was cases in which the state or a local government was performing functions that are uniquely governmental, in the sense that there is no “private person or corporation” to compare with in order to be liable to the “same extent.”

The courts developed the public duty doctrine as an analytical tool for determining if a tort duty should still be imposed on a government agency, despite the legislature's statutory waiver of immunity, based on the type of function it was carrying out. If the function is the type that is solely provided by the government, i.e., “a public duty,” then immunity would still apply. So, for example, the public duty doctrine covers fire protection services since that is a government function that is exclusively carried out by government.

A primary purpose of the public duty doctrine is to ensure that governments are not subject to liability to a greater extent than private persons or entities. The doctrine is intended to protect government entities from the prospect of excessive tort liability.

Characteristics of the Public Duty Doctrine

Many public duty doctrine cases state that “a duty to all is a duty to no one.” In other words, to overcome the barrier to liability, a plaintiff must show that a local government had a specific duty to the plaintiff rather than to the public at large.

Building inspection services is an area where courts have found the public duty doctrine applies in claims against local governments. For example, if a property owner hires a contractor to perform work under a building permit, and the work later turns out to be defective, the owner may have a claim against the contractor but generally will not be able to sue the government agency that issued the permit and inspected the work. Permit inspections are a general government function — ensuring compliance with building codes is a duty to the public at large — and holding local governments liable to the property owner in such cases could indeed open the liability floodgates.

Even in cases where it is found that the government's duty is to the public at large, there historically have been four exceptions under which a government may be liable:

- “Legislative intent” to impose a duty of care;
- A “special relationship” between plaintiff and the public entity (such as express assurances of help or aid on the part of the public agency);
- “Volunteer rescue” efforts; or
- “Failure to enforce” a specific statute.

Is your head swimming yet? When a government entity asserts the public duty doctrine as a defense to a negligence claim, the analysis is nuanced and complex. The outcome is difficult to predict because the public duty doctrine is at the fulcrum between two competing interests. The Washington State Legislature abolished sovereign immunity to ensure that those harmed by the negligence of government had recourse.

On the other hand, the specter of excessive government liability is a legitimate concern because public funds are used by government to procure insurance, defend claims, and pay settlements and judgments. Each time a government asserts the public duty doctrine, these interests loom in the background for the court deciding the issue.

Norg v. City of Seattle: New Developments in the Public Duty Doctrine

In *Norg*, a spouse called 911 seeking medical aid for her husband, who was having a heart attack. The dispatcher promptly assigned three units from two nearby fire stations to respond. The spouse provided the dispatcher the correct address for their apartment. The dispatcher told the spouse that “a lot of people” were on the way. The dispatcher provided the correct address to the units, but the units mistakenly went to a nursing home in the area for which they receive many calls. Upon realizing their mistake, the units went to the apartment, but the plaintiffs alleged that the delay caused the husband severe and permanent injuries.

The City of Seattle argued that the public duty doctrine shielded it from liability. The Washington Supreme Court decided that the doctrine did not apply. First, the Court ruled that the public duty doctrine does not necessarily apply to government-provided emergency medical services, reasoning that a private ambulance service might be liable if it negligently went to the wrong address, and the legislature requires government entities to be subject to the same, not less, tort liability as private entities.

The Court also cited to prior cases that explained that the doctrine applies only in cases involving breaches of special government obligations imposed by statute or ordinance. Therefore, the doctrine does not apply when the alleged breach is based on common law duties. “At common law, every individual owes a duty of reasonable care to refrain from causing foreseeable harm in interactions with others.” See [*Beltran-Serrano v. Tacoma*](#), 442 P.3d 608, 614 (2019).

The Court found that a common law duty of care arose when the dispatcher assured the plaintiffs that help was on the way. The Court distinguished *Norg* from a prior case where a caller hung up before actually asking for and receiving promises of help. In the *Norg* case, by not confirming the address and going to the wrong location, the city breached its common law duty by failing to

take reasonable care. Because the claim was based on a common law duty and not on an obligation imposed by statute or ordinance, the public duty doctrine was inapplicable, so it was unnecessary to analyze whether any of the exceptions to the doctrine applied.

Conclusion

Almost since its inception, there have been calls by some to abolish the court-created public duty doctrine. Some courts in other states have done so, while others have kept it. In Washington, the public duty doctrine is not dead, but its limited application has been expressly stated by *Norg*. Local governments should work closely with their legal counsel and insurers to understand the doctrine and the effect of *Norg*.

MRSC is a private nonprofit organization serving local governments in Washington State. Eligible government agencies in Washington State may use our free, one-on-one [Ask MRSC service](#) to get answers to legal, policy, or financial questions.

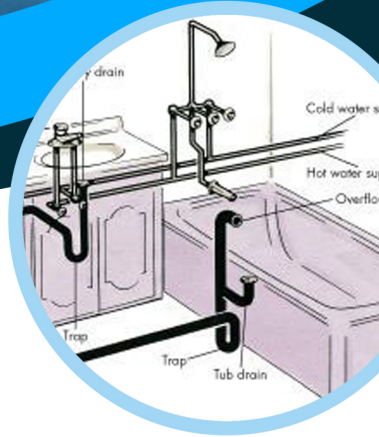


About Oskar Rey

Oskar Rey is a municipal attorney at Ogden Murphy Wallace where he represents local governments on a wide range of issues. He also teaches municipal law at Seattle University School of Law as adjunct faculty. Oskar was a legal consultant at MRSC from 2016 to 2024 and prior to that served as Assistant City Attorney at the City of Kirkland.



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