What is WUCIOA and why should I care?

by Annie Fitsimmons

On July 1, 2018, a new law took effect. The Washington Uniform Common Interest Ownership Act is found at RCW 64.90 and is best known by its acronym, WUCIOA (pronounced, "woo-ki-oh-wa"). Real estate brokers will recognize implementation of the new law by inclusion of a new field in the listing input data sheet, “common interest community,” and the availability of a new statewide form, “Common Interest Community Addendum” (Form 22CIC). The new field on listing printouts is already causing enormous confusion. Some listing brokers assume that if a seller’s property is part of a homeowners association, it is a “common interest community.” That is a bad assumption. In fact, there are few, if any, “common interest communities” in existence on the release date of this article.

WUCIOA replaces the Condominium Acts (both of them), the Homeowner Association Act and the Land Development Act but it ONLY impacts communities with CC&Rs that were recorded AFTER July 1, 2018. If an association’s CC&Rs were recorded prior to July 1, 2018, the association is NOT a Common Interest Community (“CIC”) as that term is created and defined by WUCIOA (with one exception, explained below). If the property is in an association created prior to July 1, 2018, then the “Common Interest Community” field on the listing should probably be marked “no” and there is no need to include a Form 22CIC in the purchase agreement. Associations that are not CICs are still subject to prior law.

continued on page 2

Broker safety is easier than you think

by Amit Z Baruch

Every few months, we see the same reoccurring story in the news: a real-estate broker has been attacked, on the job, when they were alone in a vacant property with a client they didn’t really know. And our blood goes cold as we realize how often we, or others we work with, have been in this same position.

As someone who is both a self-defense instructor and a 20-year mortgage expert, I am often asked by colleagues what they can do to enhance their safety. This is not a simple question and the answer often frustrates people—because it starts with the words “it depends”, and ends with the explanation that real safety comes in layers. There is not one tool, technique, procedure, self-defense system or weapon that works for everyone in every situation. The more layers of safety we implement for ourselves, the more things have to fail before we find ourselves in real trouble.

That said, the one layer that is most important in every safety situation is awareness. We have to see what’s happening around us in order to respond in any proactive way. All the training, weapons, tools or self-defense skills in the world are irrelevant if we are not aware of our surroundings and are oblivious to the possible danger we face.

continued on page 7
There is an exception to the statement that older associations are not CICs. An old association can opt into the new law and if it does, it will become a “Common Interest Community”. That process requires the old association to amend its CC&Rs and that amendment should be recorded. Given the onerous requirements of the new law, it seems unlikely that many associations will opt in.

Under the new law, an association is a Common Interest Community if the CC&Rs, recorded after July 1, 2018, describe both individually owned units and common areas that benefit and are funded by the unit owners. It is irrelevant whether the association serves a condominium, a cooperative or something that looks like a plat (created by subdivision or otherwise). There is also an exception to this statement. An association created after July 1, 2018 could be exempt from WUCIOA and not be considered a Common Interest Community if it includes 12 or fewer lots, requires HOA annual dues of no more than $300 and provides for no special declarant rights.

If listed property is part of a CIC, then the listing broker should mark the “Common Interest Community” field on the listing printout as “yes”. Moreover, the purchase agreement for that property should include a Form 22CIC controlling delivery of the public offering statement or resale certificate. All Common Interest Communities require delivery of a public offering statement to first-time purchasers and resale certificates to resale purchasers. These requirements will be familiar to real estate brokers who sell condominiums. Although not required by the law, it is likely that Common Interest Communities will need professional management, just as most condominiums already do, to keep up with the disclosure requirements necessary for the sale of homes and other statutory requirements.

The issue that will be most challenging for the brokerage community will be determining whether a property is part of a Common Interest Community. Once HOA’s become familiar with this concept, each HOA board or manager should know whether it is or is not a CIC because its operations will depend upon the answer.

If an association is a CIC, then it must be able to deliver resale certificates within ten days of an owner’s request and every transaction will be voidable by the purchaser until the resale certificate is received and for five days thereafter. Late delivery of a resale certificate will not cause a closing date extension but if the resale certificate is delivered within five days of closing, then the buyer will have the right to void the transaction until the transaction is closed. Buyers have no ability to waive seller’s obligation to deliver a resale certificate, even in a competitive market where buyers want to make their offers more attractive. If a seller is led to believe that a buyer has waived the right to receive a resale certificate and thus fails to deliver a resale certificate, then buyer will have a right to terminate the purchase agreement until closing. Delivery of a resale certificate under the new law does not impact a seller’s obligation to also deliver a Seller Disclosure Statement. Just as condo sellers today must deliver both a resale certificate and a Seller Disclosure Statement, so must sellers of property in a CIC.

Sales of new construction in a CIC require delivery of a public offering statement. Again, buyers cannot waive seller’s obligation to make this delivery. A public offering statement is a document even thicker and more complicated than a resale certificate, describing details of the developers other developments, if any, future plans related to the subject development, common elements, anticipated expenses, existing liens and warranties, limitations on use or sale of the units and many, many other issues related to construction, use and management of property that is part of the CIC. Every purchaser will have seven days to rescind a purchase agreement following receipt of the public offering statement. If a buyer in a CIC receives the public offering statement more than seven days prior to entering a purchase agreement, then a buyer will have no right to cancel after mutual acceptance. This will make it critical for listing brokers to keep records of delivery of a public offering statement to potential purchasers as well as to buyers who have already signed a purchase agreement. Additionally, if a buyer in a CIC receives the public offering statement within seven days of closing, then buyer has the right to extend the closing date in order to capture the full seven day review and cancellation period. (Beware, the law does not say either of these last two items with respect to resale certificates. Delivery of the resale certificate prior to mutual acceptance does not eliminate a resale buyer’s five day right to rescind the purchase agreement after mutual acceptance and late delivery of a resale certificate does not give a resale buyer the right to extend the closing date.)
The Washington housing market showed continued spread of house price growth to most regions of the state while Puget Sound region price growth stabilized. The statewide median sales price was $367,700 in the fourth quarter, 1.5 percent higher than the same time period last year. The third quarter traditionally represents a stabilized prices compared to the busy second quarter.

Similarly, the seasonally adjusted annual rate of existing home sales stayed stable down 0.9 percent from the same quarter of 2017 to 113,790 homes. This figure is higher than would be expected for the third quarter. The continued low supply of existing homes listed for sale is likely a leading factor promoting rapid house price growth throughout the state. Given the rapid increase in prices over the past 12 months, higher sales volume would be expected.
Breaking down trends by region reveals a high level of variance in house prices throughout the state. Somewhat expectedly, median prices were highest in King County at $685,000, with a year-on-year increase over 2016 of 4.0 percent. The lowest median prices were found in Lincoln County at $108,000 with a low number of house sales recorded.

House prices in many other county's markets rose significantly, with Spokane up 12.3 percent to a median of $252,800 and Whatcom County (Bellingham) rising 10.8 percent to $388,300. House prices in Pierce County rose by 5.6 percent recording a median of $357,200. House price growth continued strong growth outside of King and Pierce Counties with median prices in Snohomish County growing by 7.3 percent to $485,600 while in Skagit County prices grew by 10.9 percent to a median of $358,000. These figures indicate that the trend for moving to more affordable regions further away from the major employment centers in the Puget Sound is continuing. Further evidence for this can be found in Lewis County where prices rose 16.3 percent to a median of $245,600.

Reflecting trends in the wider Puget Sound region, Kitsap County rose 9.5 percent on a median price of $357,600, Mason County (Shelton) up 12.9 percent on a median price of $249,100. Surprisingly, Jefferson County (Port Townsend) bucked the trend of house price increases statewide posting a median price of $359,700 a decrease of 2.4 percent from last year.

Other regional markets posted significant price increases with Benton and Franklin counties (The Tri-cities) posting a median price of $282,700, a 15.3 percent increase over the same period last year. Chelan County (Wenatchee) posted a median price of $350,000 (up 3.8 percent from the same period in 2017) and Walla Walla posting a median price of $238,100 (up 8.0 percent). Compared to last year, the Yakima median house price stood at $233,100 up 11.4 percent.

Housing affordability was improved slightly in the third quarter of 2018 due, in part, to seasonal price variations. The index – where 100 means a middle-income family can just qualify for a median-priced home, given a 20 percent down payment and a 30-year fixed mortgage rate at prevailing rates was 106.1, up slightly from 105.4 posted in the second quarter. This metric suggests that, given the same down payment and mortgage, a middle-income family can afford a home selling for 6.1 percent above the median.

Statewide, the first-time buyer index showed an increase of 0.5 points, ending the quarter at 61.7. This index assumes a less expensive home than a typical family, lower down payment and lower income. Using the assumption that a first time buyer households would earn 70 percent of the area median household income, our index reveals that they had 61.7 percent of the income required to purchase a typical starter home.

With the overall house price increases noted statewide in previous quarters, it is not surprising that the number of housing building permits has declined as construction activity increased markedly early in the year. In the third quarter of 2018, a total of 9,979 building permits were recorded, a decrease of 14.6 percent from the third quarter of 2017. Based upon results from previous quarters, this suggests developers are building at capacity and that seasonal trends in building activity, which are much stronger in rural areas where most permit increases were noted, returning to more normal levels.

While prices continue to increase, it is useful to note that prices on a statewide level only recently surpassed the 2007 peak. Statewide building permits for the year are estimated to remain slightly below the 2006 peak, indicating that as strong demand continues and macro-economic forces remain favorable for prices to rise in the coming year, particularly for population centers outside of the Puget Sound.

The Washington Center for Real Estate Research produces home sales statistics in partnership with Washington Department of Licensing and the Washington Real Estate Commission. Sales, median home prices and affordability data for all Washington counties are available http://realestate.washington.edu/research/wcrer/reports/

James Young can be reached at jyoung4@uw.edu
Commissioner’s Corner: Interview with Our Newest Real Estate Commissioner, Sabrina Jones-Schroeder

By Clara Van Ladingham

Starting in August 2018, Governor Inslee appointed Ms. Sabrina Jones-Schroeder, Designated Broker and Owner of EXIT Real Estate Professionals in Spokane as the newest Real Estate Commissioner. Clara Van Ladingham, a University of Washington Communications and real estate student, had a chance to speak with her so that brokers throughout the state can get to know more about her.

Interviewer: Hello Ms. Jones-Schroeder! First of all, I wanted to say thank you so much for being willing to talk with me today and congratulations on your appointment as Commissioner.

Ms. Jones-Schroeder: Thank you!

Interviewer: Most people don’t decide as a teenager that they want to be a broker, how did you get involved with brokerage?

Ms. Jones-Schroeder: Well, I was 20 so not exactly a teenager, close but not quite! Honestly, I got into real estate because my mother decided to open a brokerage and asked if it was something that I wanted to do as a part time college job. So, I got involved in the business because a family member was starting an office and I decided to help her open up the firm.

Interviewer: At that point, did you know that real estate brokerage was something you really wanted to do for the rest of your life?

Ms. Jones-Schroeder: No, not at all actually. It was meant to be a part time job while I was in college because my intention was always to go to law school and to practice law as a career. I only sold real estate for about a year and a half before I did, in fact, go to law school. However, by the end of my law school education I had decided “well, maybe this isn't really what I want to do” and I ended up getting back into real estate after taking that little detour.

Interviewer: That is interesting! What motivated you to accept appointment as a Commissioner?

Ms. Jones-Schroeder: I have been very involved with my Local Association of Realtors. I’ve also been involved with the State Association of Realtors and have taught around the state so this just sort of fell like the next natural step in my progression as a real estate broker. I believe in giving back to our industry. Real Estate has been really great for me and my family. It's how I've earned my living and I have found satisfaction in real estate so I have always wanted to be able to give back to the industry that has been so good to me.

Interviewer: You mentioned your family. Please tell me a little bit about them. What are your hobbies and what do you like to do? Do you try to incorporate and push them into the real estate Industry?

Ms. Jones-Schroeder: My husband (who is awesome) is involved in the real estate business as owner of a home inspection company. He showed up to the inspection of a home that I had sold to his parents and met a home inspector who wanted to apprentice another home inspector for his company. So you could say, that through my involvement in the industry, I also got my husband involved in a home inspection which led to his career as a home inspector and now he owns his own franchise. Both of us are involved as professionals in the real estate business, which is pretty cool! We have two children, a daughter Emerson who is 15 and a son Cole who is 12. There are some Realtors that will take their kids to showings and that sort of thing. I have not done that with my kiddos much, they come to an occasional appointment but I have not involved them a ton. They see Mom and Dad working but whether they will get involved in real estate, I don’t know. My husband and I would love to see them follow in our footsteps but if that’s not their passion, that is totally cool. They should do what they want to do. When we’re not working, we like to take our 5th wheel out to camp, ski, mountain bike and golf; we like to get out of the house and go see things. With regards to community involvement, I went to Gonzaga so I sit on the Alumni Association Board of Directors and even served on the Board of Regents for a couple of years. I also work with my kiddo’s schools on fundraising efforts for the extracurricular activities that they are involved with, and over the years with a number of different groups and activities that I have been involved with as well.

Interviewer: Is there anything that you want to say to the wider brokerage community?

Ms. Jones-Schroeder: You know, I think this would be the same for any of the Real Estate Commissioners, that we do what we do in our supportive role at the Department of Licensing because we would like to see our industry as a whole raise the bar of professionalism. It's frustrating when we hear stories of people in our industry that just aren’t doing it the “right way”. I would like to see that what we do on the Commission is to figure out ways to help the licensees in the State of Washington “hone their craft,” and get better at what they do so that the public looks at what we do and sees the value and how professional we are in providing those services. I see our job as helping people to rise to that higher level.

continued on page 6
Interview with Commissioner Sabrina Jones-Schroeder

Ms. Jones-Schroeder: A career in real estate is wonderful. As I have said, I have been blessed by real estate. I have enjoyed a wonderful income. I have enjoyed a lot of schedule freedom, as it definitely isn't a 9-5 punch clock job. I have been able to be at my kiddos school Halloween parties and Valentine's day parties and go on field trips. To have the freedom to do that is so invaluable. But with that freedom and flexibility, comes a realization that you have to work hard and success doesn’t just drop in your lap. Those are the wonderful parts of our industry but you have to put in the time somehow some-way. If you take time to go hang out with your kiddos or go play golf, you have to make up that time somewhere else. Most Realtors that are killing it in this business are working really hard and putting a lot of time and effort into doing a great job for their clients. They are just doing it on their own schedule which is what we all love about it. If you are thinking about getting into this business as a younger person, that's awesome and all the wonderful things you hear about the business are true, but don't think that it comes easily. There is a price to be paid and you have to be willing to pay your dues and work. But, if you are willing to work and you are self motivated, it is an incredibly satisfying career.

Interviewer: That was great advice, both as a real estate student looking toward a real estate career and as the interviewer. Thank you so much for that. Thank you for taking the time out of your day.

Ms. Jones Schroeder: Absolutely! I would just close by saying it is just my absolute honor to have been selected by the Governor to fill this position for Eastern Washington, I am really looking forward to serving on the Commission for the next 6 years. I was tickled pink to be the one that the Governor chose, it is a true honor and I am really excited about it.

REMINDER - The Department of Licensing has developed a new guidance brochure to assist designated brokers, managing brokers, and brokers in understanding the requirements of lawful advertising within the real estate industry. You may download the copy at: http://www.dol.wa.gov/business/realestate/docs/620400.pdf

What is WUCIOA and why should I care? continued from page 2

This new law is already creating confusion and is likely to do so for many years to come. Designated brokers, it would behoove you to gain a thorough understanding of this issue and spend time in office meetings conveying information to your brokers. You will probably have to do this more than once. It is critical for brokers to understand the bright line nature of the July 1, 2018 date. Associations that exist by virtue of CC&Rs recorded prior to July 1, 2018 are NOT CICs unless the title report shows an amendment to the CC&Rs after July 1, 2018, by which the association opts into the new law. Said differently, if the title report shows that CC&Rs were neither recorded nor amended after July 1, 2018, then the property cannot be a CIC. If CC&Rs were recorded prior to July 1, 2018, and amended after July 1, 2018, then brokers will have to understand the nature of the amendment to know whether the amendment was an “opt in” to the new law or simply a modification of the CC&Rs.

Associations that exist by virtue of CC&Rs recorded after July 1, 2018 are CICs, unless the plat includes 12 or fewer lots and then brokers will have to rely on the seller, who may have to consult the HOA, for the answer to the question of whether the property is in a CIC.

It has always been important for brokers to order a preliminary commitment for title at the time the listing is taken and this new law creates one more item that brokers must confirm with the title report. Brokers must locate reference to CC&Rs, if any, on the title report and pay attention to the date the CC&Rs and any amendments to the CC&Rs that were recorded. If nothing related to the CC&Rs was recorded after July 1, 2018, then the property is NOT in a CIC. If recording of the CC&Rs or any amendment to the CC&Rs occurred after July 1, 2018, then the broker will have to determine if the association is a CIC.

It is important for brokers to be able to determine if a community is a CIC. If a community is a CIC and the broker does not help seller understand the importance of timely delivering the statutorily required documents, seller’s transaction will be vulnerable until it closes and if there are association issues that should have been disclosed to buyer but were not, because a required resale certificate or public offering statement was not delivered, then liability could exist for the brokers who failed to recognize the legal requirement for buyer’s protection. On the other hand, if a broker mistakenly identifies an association as a CIC and creates a false impression in the mind of buyer or seller that seller must provide a resale certificate or public offering statement, then a seller will be frustrated and a buyer may be angry to discover that association disclosures are not actually forthcoming.

With this basic understanding of WUCIOA, some ask how it is that this law came to be. A short history lesson is instructive. In 2006, a group of Seattle condo lawyers got together to talk about updating the Condominium Act. They called themselves the “Condo Club.” They proposed legislation to improve condo law. Legislators considered the proposal and the need for all home owner associations to be regulated by law that requires accountability to owners. After years of work by the Condo Club, Legislators and stake holder groups, WUCIOA was passed during the 2018 Legislature. It will be a difficult law for many plat communities, created after July 1, 2018, to embrace and administer.

This article was written by Washington REALTORS® Legal Hotline Lawyer Annie Fitzsimmons and was first featured in the Autumn Edition of RE Magazine. It is reprinted here with permission.
So, how do we build our awareness?

This requires discipline, just like building our business, training our muscles, or truly changing any other part of our life. For starters, we must put down the smart phone, open our eyes and ears, believe what we see, and trust in our intuition. And then, we must make a plan of how we will respond to a particular situation in advance of that event occurring.

The smart phone is one of the greatest impediments to safety in our lives and most of us are completely dependent on and connected to them. How many times do you pick yours up daily? Look around you the next time you’re out at a coffee shop, in a mall or walking across the street. How many people have their eyes down in the screen, their hearing blocked by headphones, or are otherwise distracted by a phone conversation? None of these people is in a position to protect themselves if some event occurs. They are completely unaware and unprepared. Simply staying off our smart phones as much as possible while we’re out and about is a great way to build up our safety through awareness. If you are using your phone (come on, let’s be realistic!), stop every few minutes and look around you. Listen to what’s going on. Assess your surroundings and situation. Make sure nothing weird or unsafe is happening around you. Then go back to whatever you were doing on the smart phone. However, merely staying off the smart phone, looking around, and listening is not enough. The other component requires that we believe what we see unfolding around us and then develop a plan to respond. This planning needs to happen before trouble hits.

While we can’t predict every possible scenario, ask yourself these questions: “What concerns me in my daily life? What part of my job as a real estate broker is dangerous? How would I respond if I saw that scary possibility unfold? Can I actually execute that response?” Then start designing plans to respond to these potential threats before they occur.

Everyone is different, has different abilities, limitations and circumstances. But, by going through this “what-if” exercise, and developing a general plan while we are calm and not in danger, we eliminate a big part of the lag time from when we first notice a potential problem to responding to the threat. We can pre-program a set of possible responses that fits our personal situation and abilities, so we don’t freeze or freak out if something does occur. Self-defense scenarios are tense, uncertain and rapidly evolving. They happen quickly. But, by thinking about our situation in advance, preparing to respond to trouble—and staying aware of our surroundings—we provide ourselves a great foundation and the first critical layers toward our personal safety.

Amit Z. Baruch is a senior loan officer with Fairway Independent Mortgage, a self-defense instructor and public speaker. He teaches classes to real estate brokers on safety and awareness as well as offering hands-on self-defense seminars.

**News Bytes**

The Department of Licensing has guidance available on a variety of business practices that are important to all brokers to consider. Examples include:

- **Advertising** - [https://www.dol.wa.gov/business/realestate/advertising.html](https://www.dol.wa.gov/business/realestate/advertising.html)
- **Contracts and Agreements** - [https://www.dol.wa.gov/business/realestate/recontracts.html](https://www.dol.wa.gov/business/realestate/recontracts.html)

The DOL website contains useful information not only on business practices, but also updates on possible legislation and rules governing licensed real estate professions.
Disciplinary Actions

May 2018

J Scott Harthorn - Fox Island
- Action: Real Estate Broker License Revoked for a period of 10 years.

Charles A. Peterson - Renton
- Action: Real Estate Broker License Revoked for a period of 3 years.

Dorothea M. Le - Federal Way
- Finding: Unprofessional Conduct - Failure to produce records related to property management and failure to cooperate with the Department.
- Action: Real Estate Designated Broker License Revoked for a period of 10 years.

Darin L. Robertson - Issaquah
- Finding: Unprofessional Conduct - Failure to cooperate with the Department.
- Action: Real Estate Designated Broker License assessed a fine of $1,000 due within 1 year.

June 2018

Karen L. Fox - Vancouver
- Finding: Unprofessional Conduct - Created fictitious document and forged a signature.
- Action: Real Estate Broker License Suspended for a period of 1 year, 60 days actual commence on November 1, 2018, with remaining 305 days to be stayed (not imposed) for a period of 3 years; and under heightened supervision for 2 years.

July 2018

William Amacker - Kennewick
- Finding: Unprofessional Conduct - Mishandling of property management funds while licensed in California, and failing to supervise employees.
- Action: Real Estate Designated Broker License shall not hold trust accounts or engage in any property management activities for a period of 10 years.

Lee J Gaskill - Bonney Lake
- Action: Real Estate Designated Broker License Revoked for a period of 10 years.

Lifen Liu - Redmond
- Finding: Unprofessional Conduct - Conducted property management services outside the firm.
- Action: Real Estate Broker License Suspended for a period of 1 year all stayed (not imposed) for a period of 3 years; and assessed a fine of $3,500 due within 1 year.

Liliana Urdahl - Kirkland
- Finding: Unprofessional Conduct- Convictions of Theft.
- Action: Real Estate Broker License shall be under heightened supervision by her designated broker or branch manager until February 05, 2022; and not obtain or attempt to obtain a Multiple Listing Service key, or may not enter listed properties for a period of 2 years.

August 2018

Jackie Hummel - Bonney Lake
- Finding: Unprofessional Conduct - Audit irregularities with trust accounts, record keeping issues, and mishandled tenant security deposits.
- Action: Real Estate Designated Broker License revoked for 10 years; and assessed a fine of $5,000 due within 90 days.

Earl Lincoln - Belfair
- Finding: Unprofessional Conduct - Failure to use reasonable skill and care.
- Action: Real Estate Designated Broker License suspended for 1 year, 60 days actual, with remaining 305 days to be not imposed for a period of 3 years; and assessed a fine of $1,500 due within 1 year.

Barbara A. Duhon - Marysville
- Action: Real Estate Designated Broker License suspended for 1 year all stayed (not imposed) for a period of 3 years.

October 2018

James Michael Hartford - Bellevue
- Findings: Unprofessional Conduct - Entering a listed home without permission.
- Action: Real Estate Broker License suspended for 1 year, all stayed for 3 years, and assessed a fine of $1,000 due in 6 months.

November 2018

James Paul - Vancouver
- Findings: Unprofessional Conduct - Convicted of theft in the first degree.
- Action: Real Estate Broker License suspended for 1 year, all stayed for 3 years, shall be under heightened supervision by his designated broker or branch manager for 2 years.

Stephanie Saelee - Seattle
- Findings: Unprofessional Conduct - Failure to produce required continuing education certificates.
- Action: Real Estate Managing Broker License suspended for 1 year, with 3 months imposed, with the remaining 9 months to be stayed (not imposed) for 3 years, and assessed a fine of $1,000 due in 6 month, and assessed a fine of $2,000 due in 90 days.

Julian Travis - Marysville
- Findings: Unprofessional Conduct - Convicted of indecent liberties and third degree rape.
- Action: Real Estate Broker License revoked for 5 years.