

## Washington: Seattle seeks review of the court decision striking down its wealth tax



David M. Kall | Thursday, January 4, 2018

Just after Thanksgiving, Judge John Ruhl of the King County Superior Court in the state of Washington struck down Seattle's [ordinance](#) imposing a 2.25 percent income tax on joint filers with incomes over \$500,000, and single filers with incomes over \$250,000. Seattle officials promised to take their case to the Washington Supreme Court, and so they have, with their Dec. 8, 2017 [notice of appeal](#), which Bloomberg posted on-line.

Seattle's mayor at the time signed the ordinance on July 14, 2017, and according to its terms, it was to take effect 30 days later. But also on July 14, 2017, a number of plaintiffs sued the Emerald City, asserting that the tax violated both Washington state law and its constitution. Judge Ruhl agreed in a Nov. 22, 2017 decision granting summary judgment to the plaintiffs, the highlights of which we [summarized](#) when it came out.

A week later, on Nov. 30, 2017, the lawyer who represented the lead plaintiff wrote an [op-ed](#) for the *Seattle Times* praising the "extraordinary job" Judge Ruhl did with the case, and his "extraordinary decision." At the same time, the lead lawyer commended the current Mayor, Jenny Durkin, characterizing her as "an attorney herself, and an excellent one at that." Nevertheless, he urged her to "not file an appeal unless she believes it has legal merit."

### **Seattle's homeless problem**

Mayor Durkin took office just last November, after winning 56 percent of the vote. She campaigned heavily

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on the theme of homelessness and increasing access to affordable housing. In our July 2017 [piece](#) explaining the details of the ordinance, we noted that the new levy was expected to generate \$140 million in annual revenue, and was to be spent on a number of initiatives, including addressing the homelessness crisis and providing affordable housing, education, and transit services.

Although as of this writing, there are no press releases on the mayor's office [website](#) concerning the city's appeal of Judge Ruhl's decision, Seattle is moving forward with its homelessness eradication efforts despite its court loss. Indeed, a Dec. 14, 2017 [announcement](#) trumpeted the availability of \$1 million to ensure a continuation of services, flowing primarily from savings from projects in other divisions within the Seattle Human Services Department (HSD), staff savings, and other departmental administrative savings. This comes on the heels of a \$34 million award that HSD made in November for investments in 2018, that would, among other things, help 7,000 households experiencing homelessness move into permanent housing in 2018.

And in a press release just four days later, on Dec. 18, 2017, Mayor Durkin's office [announced](#) \$100 million in affordable housing investments, to fund a "series of projects [that] will build and upgrade 1,450 homes, which will remain affordable for at least 50 years." The funding for this comes from several different sources: a 2016 Seattle Housing Levy that voters approved; funding from incentive zoning payments; proceeds from the sale of surplus properties; and \$29 million in bonds approved by the Seattle City Council. Additional "local and federal resources for rental housing will support more than \$260 million in investments."

Despite all of this, one expert, a former executive director of the [U.S. Interagency Council on Homelessness](#) opined in an [interview](#) on KIRO Radio that although the \$100 million investment would "contribute to the overall progress that [Seattle needs] to make," she did not think that there would be "visible impacts except for those people who are actually going to be able to move into that housing." The "unseen" part of the problem is people who are at risk of homelessness: "...It's going to help folks who you won't ever have to see as homeless because they'll be able to continue working and have a decent place to live on their low-wage working incomes."

As for the Seattle's appeal to the Washington Supreme Court, a pair of different plaintiff's attorneys filed a [letter](#) on Dec. 12, 2017, also posted by Bloomberg, arguing that the city submitted its notice of appeal "prematurely." They assert that the "Superior Court has not yet entered judgment, has not entered an order...and has not addressed the Plaintiff's requests for permanent injunction [of the ordinance]."

According to the docket, these technicalities have been mostly cleared up; there is a new entry for Seattle's Notice of Appeal dated Dec. 15, 2017, and an order denying the motion for permanent injunction dated Dec. 27, 2017.



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