

# Snohomish County Bar

## The Benefits of True Civility

by Judge Brian Tollefson (Ret.)

This will be a very short article. That is because our society has become very short on civility.<sup>1</sup> I realize that the concept of civility is very broad and that the term "civility" has different meanings in different contexts. But no matter how civility is defined, at this point I'm sure the reader would agree there has been a measurable reduction in civility throughout many segments of our society in general.<sup>2</sup> From my own experience, I have seen and heard conduct that causes me to grieve the loss of civility and to wonder whether it has been abandoned. The apparent loss of civility has generated a multitude of books, articles, videos, etc., about civility and its importance, in particular within the legal system.

Civility helps ensure public confidence in our legal system.<sup>3</sup> When civility declines, fair-mindedness may be compromised. The late Hon. Mary Fairhurst, former Chief Justice of the Washington Supreme Court,<sup>4</sup> and our current Chief Justice Steven González<sup>5</sup> both have written about civility.

Chief Justice González distinguishes between "true civility" and "false civility," explaining that the former depends on "context, cultural factors and ... other things," while the latter might include using polite words in a patronizing or insincere tone. Former Chief Justice Fairhurst pointed out that incivility impairs cognitive function, reduces volunteerism, impacts psychological well-being, and costs money.<sup>6</sup>

Business titan Jeff Bezos has recognized the need for more civility. In July 2021, he announced a new philanthropic initiative called the "Courage and Civility

**continued on page 8**

MEMBERS NEWSLETTER

APRIL 2022



## A Tribute to Superior Court Judge Cassandra Lopez-Shaw

Cassandra Lopez-Shaw lost her battle with cancer March 3, 2022. Judge Lopez-Shaw died peacefully surrounded by her family in Everett. She was 54 years old.

"Cassandra was a beacon of caring, love, and optimism. Our community has lost a most courageous, spirited and independent leader. Life was made better for many people because of Judge Lopez-Shaw's work. She will be missed by so many whose lives she touched with her trademark grace, optimism, and kindness."

-- Rico Tessandore, former President of SCBA

Before joining the bench, Judge Lopez-Shaw practiced civil and criminal law both as a private attorney and as a public defender representing clients in fifteen counties, with over two hundred cases proceeding to trial. Washington Women Lawyers awarded Judge Lopez-Shaw the Domestic Violence Advocacy Award for her work on behalf of victims of domestic violence

**continued on page 2**

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## Inside this issue

A Call for civility	1
Superior Court Judge Cassandra Lopez Shaw	1
Upcoming CLE, Bar Poll	3
"Technology in the Law" by Marya Noyes	6
Growth in Snohomish County	15

# SCBA TEAM

## BAR CALENDAR

### SCBA BOARD MEETINGS, 5:15 PM

4/21                      5/20                      6/16                      7/21

4/21/22 Memorial for Judge Cassandra Lopez-Shaw,  
3:30 Jury Assembly Room, courthouse

4/22/22 CLE on Legal Ethics, 9am -12:15pm, details  
next pg

### About Bar News

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### "Judge Lopez-Shaw" continued from front

before she was elected to the bench. When Judge Lopez-Shaw announced her judicial candidacy she had seventeen years of legal experience and was rated Exceptionally Well Qualified by the Veteran's and Loren Miller Bar associations. As a judge, she served on the Personnel and Education Committee, the Drug Court Committee and the Budget and Planning Committees for Snohomish County Superior Court.

"Judge Lopez-Shaw was unfailingly cheerful and friendly as a lawyer. As a judge, she worked hard and got along well with the bench. Serving as a judge was important to her and it showed in everything she did."

---Snohomish Co. Superior Court Presiding Judge George Appel

"I have seen Judge Lopez-Shaw's kindness and humanity toward the people she served—people who did not speak English, people who were intimidated by the very thought of court, people who, history shows, too often were treated as disposable by this institution. Cassandra empowered them. She protected them."

---Snohomish Co. Superior Court Judge Anita Farris

Judge Lopez-Shaw, the first LatinX Judge in Snohomish County Superior Court, was also an energetic community volunteer especially in disadvantaged communities.

"Judge Lopez-Shaw served our community with her natural kindness, empathy, bravery and strength, and she reminded each and every judge on this bench that every decision we make—even seemingly the smallest ones-- can have lifetime effects on countless people,

and that each decision must be made with humanity as a guiding principle."

—Chief Justice of Washington State Supreme Court,  
Steven Gonzalez

She volunteered over 200 hours a year pro bono, coached the YMCA Mock Trial Program and the Bothell Youth Court, and was a guest speaker in many public school classrooms throughout Snohomish County.

"Judge Lopez-Shaw taught young lawyers about professionalism and ethics, most importantly teaching them that the law is not a game, and that as lawyers and judges the most important practice in our professions is the practice of humanity."

-- Everett Municipal Court Judge Amy Kaestner

Judge Lopez-Shaw was always one to bring her unique sense of style and flair to any job or project she undertook. Upon her historic election, she gifted her new female colleagues with embroidered judicial collars in a nod to Supreme Court Justice Ruth Bader Ginsberg.

"Cassandra was vibrantly and unapologetically feminine. She transformed the space she occupied into something unique, happy and cheerful. More importantly, Cassandra transformed the emotional space she occupied in people's lives into a warm, loving, safe, and supportive one. She cared deeply about people, and she proved it through her words and actions. Those of us who had been fortunate enough to be on

continued on page 5

# MEMBER NOTICES

**Legal Ethics CLE: 4/22/22, 9am to 12:15pm via Zoom.**

**Presenters: Jeanne Marie Clavere, Erica Temple, Philip Buri**

Attendees with specific legal questions for the panelists are encouraged to submit those to the event organizer, Kari Petrsek via [kari@petraseklaw.com](mailto:kari@petraseklaw.com). Zoom link will be released via SCBA e-news, no RSVP is required. To receive CLE credit, please have your dues paid in advance.

## **Superior Court Candidate Bar Poll**

To aid the governor's office in their selection of our two newest Superior Court judges, SCBA will conduct a poll of our voting members.\* This online secure survey will ask you to evaluate each candidate in key areas. Details coming to your inbox in April.

\* To qualify for participation in this poll, please have your 2022 dues paid, have voting status, and be practicing or presiding in Snohomish County.

**Family Law next convenes in May, date tbd (no Family Law Meeting in April)**

Bar/Bench conversation



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## "Judge Lopez-Shaw" cont'd from page

the receiving end of her generosity have been forever changed into better versions of ourselves."

—Snohomish Co. Superior Court Judge Anna Alexander

Judge Lopez-Shaw attended the University of Washington and then Loyola Law School while her devoted husband, Michael, was deployed to Iraq with the U.S. Marine Corps. Their son Michael wrote: "The closeness of my family all stems from the most ideal love I have seen between my parents." The story of their love and life can be found in a book the couple published, *Two Minds: A Love Story*. Judge Lopez-Shaw is survived by her husband, Michael, her daughter, Lieutenant Alexes Lopez de Arriaga-Shaw, USN, her son Captain Michael Lopez de Arriaga-Shaw, USMC and his wife Claudia, her mother Sandra, and her brother George.

Judge Lopez-Shaw's courthouse memorial will be held Thursday, April 21st at 3:30 in the Jury Assembly Room. Join us in honoring the life of a great arbiter!



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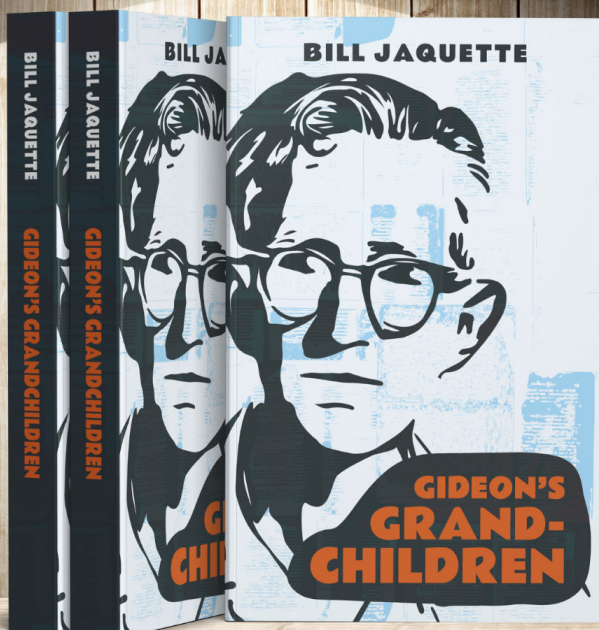
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# TECHNOLOGY & THE PRACTICE OF LAW

Marya C. Noyes, 123LLL, MBA

Frank Zappa, "Without deviation from the norm, progress is not possible."

Technology is coming to the field of law, my friends. Regardless of the resistance and insistence that firms practice law the same way their forefathers did when county was founded, times are changing. As I have frequently declared in previous articles, the extraordinary justice gap in this county is easily seen by anyone with a profit incentive as, "unmet consumer need." Consequently, many companies are committed to advancing and revolutionizing the current way law is practiced.

Resistance to adopting practices that lower cost and increase consumer value combined with the heady potential of substantial profits typically does not end well for the resisters. As an example, circle up and allow me to regale you with one of the many cautionary tales from the land



of business school on such a subject. Picture if you will the US auto industry in 1970 when the big three auto makers (GM, Ford, and Chrysler) had 86%<sup>1</sup> of the car market in the United States, and average US vehicle got 12.3 miles per gallon.<sup>2</sup> During this time, US automobile quality had deteriorated so badly the U.S. Federal Trade Commissioner launched an investigation into the rapidly growing list of consumer complaints.

Consequently, the U.S. car market was primed and ready for infiltration by foreign auto manufacturers offering cars with optimized fuel economy and superior quality. However, instead of rapidly responding to foreign competition with similar market innovations, U.S. car manufacturers first sought assistance from the government to protect their market share from foreign infiltration.

The big three companies convinced the U.S. government to impose trade restrictions on Japanese automakers to protect their virtual monopoly of the U.S. car market. Unsurprisingly, to those of us with any economic training whatsoever, instead of helping the U.S. consumer, the trade restrictions led to a restric-

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tion of the car market and higher prices for lower quality automobiles. As is consistent with most protectionist strategies, the U.S. car manufacturers benefited at a cost to the U.S. consumer. In a landmark study by Robert Crandell of the Brookings Institution, the restrictions were described as a "big net loser for the U.S. economy."<sup>3</sup>

Not only did these trade restrictions hurt the U.S. consumer and the economy, but they also did not work. Despite the considerable efforts to the contrary, foreign manufacturers have substantively eroded the U.S. manufacturers dominance in the U.S. car market. By 2010, the big three's total market share had shrunk to 44.4%.<sup>4</sup> In fact, last year Toyota became the first automaker in 91 years to overtake GM in total US Auto sales.<sup>5</sup>

Please understand, by putting forth this analogy I am not claiming the U.S. legal industry produces a defective product. Far from it. I am suggesting the legal industry take lessons from this cautionary tale of resistance and embrace the change that is inevitable when such large profits are at stake. According to the last years Legal Trends Report, the average attorney in the United States billed their clients for only 31% percent of a day's typical workable

hours.<sup>6</sup> In an eight-hour day, 31% equates to about 2.5 hours. The only logical conclusion one can draw from such a statistic is that either the average attorney does not have enough clients to fill their time, or there are a tremendous number of other activities detracting from billable work.

If the issue is the lack of clients, then the attorney should obviously focus on marketing strategies and sales channel funneling (issues well out of the sphere of this article). However, if the trouble is efficiency in bookkeeping, trust accounts or administrative tasks, then there are now a plethora of programs and software dedicated to increasing the legal professional's proficiency in these areas.

For example, Clio Manage will allow the firm to automate client intake and subsequently insert data into specific document templates. Other products that also allow for this process are WealthCounsel, Lawyaw and LawCloud. As is common with most automation, these programs reduce human error, decrease overhead, increase efficiency and client satisfaction. Further, the client of today is looking to work with an automated law firm.

"Technology" continued on page 10



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"Civility," continued from page 7

Award" to recognize "leaders who aim high, pursue solutions with courage and always do so with civility."<sup>7</sup>

When announcing the award, Bezos said: "We live in a world where sometimes instead of disagreeing with someone's ideas, we question their character or their motives [emphasis added]. "Guess what," Bezos said, "[a]fter you do that it's [darn] hard to work with that person." Bezos pointed out that what you should be doing is "questioning ideas, not the person." He went on to say, "it's easy to be courageous and mean. Try being courageous and civil. Try being courageous and a unifier." His final point was that people can "argue hard and act hard for what they truly believe," but they can do that always with civility."<sup>8</sup>

To highlight, attorneys should not attack the character of other attorneys. Restating what Jeff Bezos said, if you attack the attorney instead of attacking the argument, it makes the case much harder to resolve because people whose character is attacked tend to react. So how can civility be improved in the legal profession?

The English Inns of Court in London have a long tradition of promoting civility and professionalism.<sup>9</sup> Years ago, when my wife and I visited London, our VRBO host just happened to be a barrister with The Honourable Society of the Middle Temple. He gave us an inside tour of the Middle Temple including its famous Middle Temple Hall where members gather and meet. From him, we learned that to promote civility, new members of the Middle Temple are required to attend a minimum number of dinners that combine collegiality and educational elements. As our barrister guide explained, after you have had a meal with a potential opponent it's more likely that you will be civil during any law-related encounters later.

Civility helps ensure public confidence in our legal system. When civility declines, fair-mindedness may be compromised.

This tradition of civility of the English Inns of Court through collegiality, by having group meals and shared education, has been promoted in this country by the American Inns of Court. I am an emeritus member of the Hon. Robert J. Bryan American Inn of Court in Tacoma. To highlight the importance of

"Civility" continued on page 13

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I am sure this is not new information to the readers of this article. Since the pandemic investment in law firm technology has increased exponentially. According to the 2020 Legal Trends Report, 85% of firms are using software to manage their firm, 83% were meeting clients virtually, 79% were storing data in the cloud, 73% accepted online payments and 62% supported electronic documents.<sup>7</sup>

But what about substantial changes in the way law is practiced? As odd as this may sound, there are currently technology startups collecting seed money and building companies around evolving that as well. For example, a company called Justpoint out of Colorado is leveraging artificial intelligence to equip law firms to analyze the viability and profitability of potential cases.<sup>8</sup> Through analyzing a database of over 300,000 historical claims the software uses data extraction models to estimate how good a firm is at winning cases like medical malpractice, product liability or sexual assault. Further, the software estimates whether a certain claim is worth the firm's resources. At present, Justpoint is working with over 1,000 law firms and it has been reported they raised over \$7.9 million in seed money for further development.<sup>9</sup>

New Era ADR is a company attempting to revolutionize Alternative Dispute Resolution. It is a virtual tool that proports to cut down on the time and cost of resolving disputes by 90%. The company manages all the case intake, payments, scheduling, meetings, and arbitrators, so the clients can get a binding resolution in as little as 60 days. New Era charges a flat fee per case and in less than a year was named the dispute resolution platform in over 50 million contracts.<sup>10</sup>

One of the most revolutionary ideas I have seen is the concept of the Legal Sandbox from State of Utah. In December 2020, Utah's Supreme Court signed an Order authorizing the creation the legal sandbox. The Sandbox is a mechanism by which the Supreme Court permits entities to offer innovative ideas, methods, and models of legal practice. The "Sandbox" creates a regulatory space outside of the traditional rules that govern legal practice. Legal practice entities can be owned by lawyers and nonlawyers jointly or wholly owned by nonlawyers. Further, members of the Sandbox

may use lawyers, or nonlawyer practitioners to provide legal advice and provide other services.<sup>11</sup>

If you are thinking, "This sounds like a way for big business to enter the practice of law." You might be right. It certainly sounds like it to me. However, the obvious question is why wouldn't business try and find a way into a market with such tremendous unmet consumer demand?

Last year over 86% of low-income Americans with a legal problem received inadequate or no legal help and over 71% of low-income households experienced at least one civil legal problem.<sup>12</sup> In other words, the potential market for the dissemination of legal services is enormous. As an active and vocal advocate for access to justice, I am always in favor of anything that provides consumers with information to resolve their issues ethically and intelligently. Instead of resisting these trends, I advise practitioners to embrace these advances, so they are guided by experienced and responsible voices from the legal field not profit.

#### NOTES:

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6 Appendix A: Hourly Rates and KPIs, Legal Trends Report 2021. Clio. p. 62. <https://clio.drift.click/ltr-2021>

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9 Hall, C., (March 16, 2022) Legal tech startups bringing law order to fragmented industry. TechCrunch. <https://techcrunch.com/2022/03/16/legal-tech-startups-bringing-law-order-to-fragmented-industry/>

10 <https://www.neweraadr.com/>

11 The Office of Legal Services Innovation – An Office of the Utah Supreme Court <https://utahinnovationoffice.org/frequently-asked-questions/>

12 The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans. (June 2017) Legal Services Corporation. p. 6 <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>



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## "Civility" continued from page 8

civility, the Hon. Robert J. Bryan American Inn of Court gives out a Civility Award annually. The award is given to "a practitioner who embodies civility, ethics, and professionalism." So, in honor of the Inns of Court tradition of civility in England and this country, I am pondering the idea of creating a WSBA President's Civility Award.

The aspects of civility that I think are important include the following:<sup>10</sup>

- A person's ability to be considerate and treat each person with dignity and respect, always avoiding ad hominem attacks.
- A person's ability to be mindful of other peoples' legitimate opinions and beliefs, even if they may differ from one's own.
- A person's ability to recognize how another person's words and actions may be wrongly misinterpreted.
- A person's ability to be thoughtful and reasonable when making a response.
- A person's ability to believe in fair treatment and equality irrespective of an individual's attributes.

- A person's realization that civility is vital to maintaining public confidence in the rule of law and society's well-being in general.

The WSBA has thousands of attorneys who embody these traits and will continue to set the "bar" that best exemplifies our legal profession's ability to be civil. Let's do more together to enhance, promote, and model civility.

### About the Author

Judge Brian Tollefson (Ret.) is a principal at Black Robe Dispute Resolution Services, PLLC. He can be reached at: TollefsonBOG@outlook.com

### NOTES

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"Civility" continued on page 15



Mr. Pellegrini is an experienced family law attorney whose practice began in Seattle and has expanded to include continuous case actions in Snohomish, Whatcom, King County, Skagit and Island counties

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4. Fairhurst, M. *Civility in the Legal Profession* (2015) <https://amjjudges.org/conferences/2015Annual/Materials/Civility-Legal-Profession.pdf>.

5. González, S. "True Civility Requires More Than Being Polite," *Washington State Bar News* (September 2012), 25-28.

6. See note 4.

7. You can watch the whole Bezos speech and award ceremony here: [www.c-span.org/video/?c4970415/user-clip-jeff-bezos-courage-civility-award](http://www.c-span.org/video/?c4970415/user-clip-jeff-bezos-courage-civility-award).

8. *Id.*

9. See, e.g., *Honorable Society of the Middle Temple, Statement of Values*: [www.middletemple.org.uk/about-us/middle-temple-statement-values](http://www.middletemple.org.uk/about-us/middle-temple-statement-values).

10. Portions of the Middle Temple "Statement of Values" (See [www.middletemple.org.uk/about-us/middle-temple-statement-values](http://www.middletemple.org.uk/about-us/middle-temple-statement-values)) and the speech given by Jeff Bezos helped me frame these factors.

This article is reprinted from the March 2022 issue of *Washington State Bar News* with the permission of the Washington State Bar Association. Any other use of this material without the express written permission of the Washington State Bar Association is prohibited. By 2044, Snohomish County population projected at 1.1 million

## By 2044, Snohomish County population is projected at 1.1 million

by Claudia Yaw, reprinted with permission from the *Everett Herald* 3/5/22

"The county is planning how to accommodate newcomers. Here are four takeaways from newly adopted growth targets."

EVERETT — The year 2044 is going to be crowded in Snohomish County.

By then, over 308,000 new people are projected to live here, pushing the total population past 1.1 million, according to growth targets adopted by the County Council last week. That growth is expected to be paired with 171,800 new jobs, for a total of more than 467,000.

Years in the making, the growth targets will inform the county's 2024 comprehensive plan, last updated in 2015.

That may sound boring. But the plan will have far-ranging impacts on how the region will transform as it braces for more people than ever. Where off-

"Growth" continued on page 17



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## "Growth" continued from page 15

cials expect those newcomers to live and work will determine how dollars are invested into roads, housing, schools and more.

A Daily Herald reporter took the time to learn all about it — tuning into council meetings and reading 63 pages of related documents — so you don't have to.

Here are four takeaways:

### 1. Transit will guide 50% of the county's growth

The county's new growth targets solidify what officials realized around 2017: Newcomers aren't all funnelling to Everett, the county's core metro area and largest city by a longshot.

In the last round of growth targets, councilmembers prioritized Everett to absorb the bulk of the county's growth, citing better zoning and a hope that denser neighborhoods would help guide light rail expansion. But newcomers have instead been filling in areas along a broader corridor in the southwest corner of Snohomish County, including Everett's fast-growing suburbs. The trend called for the creation of a brand designation

within the growth targets, called "high-capacity transit communities."

The category includes the cities of Arlington, Edmonds, Marysville, Mill Creek, Mountlake Terrace and Mukilteo, as well as unincorporated parts of south county.

The county expects those areas to accommodate half of the county's total population growth.

"What we're seeing, then, is most cities will have significant efforts ahead of them," Stephen Toy, a county long range planner, told councilmembers earlier this year.

Sound Transit Link light rail is creeping north into Snohomish County. By the 2040s, a string of stations should be in place from Lynnwood to Everett. And bus rapid transit will soon serve the I-405 corridor from Lynnwood to Bothell.

"Growth" continued on page 17

"Growth" continued from page 17

This year, lawmakers are mulling over other big transportation investments in buses, ferries and rail.

Toy noted higher-density housing is already cropping up near light rail in high-capacity transit communities south of Everett.

Roughly 153,000 residents are expected to join those neighborhoods by 2044. But the communities only have housing capacity for about 100,000. That's based on a 2021 Buildable Lands Report.

Mill Creek, Marysville and areas of unincorporated Everett face especially large capacity shortfalls.

Employment will pose less of a challenge in high capacity transit communities, which should bear 30% of Snohomish County's employment growth. County leaders anticipate those communities will need to make up for a gap of about 6,700 more jobs to meet the growth targets.

## 2. Everett needs more jobs

Everett is planned to accommodate 20% of the county's population growth and nearly 40% of job growth.

Under projected population growth, Everett could have a shortfall of 24,700 jobs if employment doesn't pick up.

That's the largest potential employment gap planners have identified in the target process.

The city will need a "much higher rate of employment growth" to keep up with projections, senior planner Frank Slusser told county councilmembers.

Everett's population growth rate is expected to nearly quadruple by 2044. New light rail stations will strengthen the city's connection to King County and the surrounding areas. But there are other forces driving Everett's future growth, said city planning director Yorik Stevens-Wajda.

"I won't hang my hat on light rail being the only reason that I see a lot of potential for growth and development and success in Everett," he said. "We've also had the beginning of commercial airplane service at Paine Field, and we've done a number of planning efforts."

He pointed to the housing action plan Everett adopted in 2021. The plan aims to bolster housing variety and urban development, encouraging accessory dwelling units, corner duplexes, townhouses and courtyard apartments.

The past year or so has already been encouraging, as several new apartment buildings have popped up in the city.

Apartments and condominiums being constructed in Lynnwood across from Alderwood mall in September 2021. (Olivia Vanni / Herald file)

Apartments and condominiums being constructed in Lynnwood across from Alderwood mall in September 2021. (Olivia Vanni / Herald file)

## 3. 'Core cities' Lynnwood and Bothell may shoulder 12% of county growth

Lynnwood and Snohomish County's share of Bothell, considered together as "core cities" in new growth targets, are slated to absorb 12% of the county's new population and 18% of its employment growth.

The targets found that by 2044, the cities won't have capacity for over 10,000 people and jobs. They'll have to figure out how to make room.

Light rail isn't planned for Bothell, but expanded bus rapid transit will serve the city's Canyon Park. Bothell community development director Mike Kattermann said the regional growth center is already seeing significant employment gains.

He said Canyon Park recently gained thousands of jobs without increasing its physical footprint.

Kattermann serves on Snohomish County Tomorrow, the body that spearheaded the growth targets. He attributed some of those new jobs to expanded remote work during the pandemic.

Lynnwood, he added, is expecting more family-wage jobs in the future. Incoming light rail is already driving new development.

## 4. Targets come with uncertainty

The 2044 growth targets were devised with input from across the county. They serve as a backbone for the comprehensive plan update. But there's some uncertainty baked into them.

Updated growth projections from the state Office of Financial Management won't come out until later this year, offering a better look into how the pandemic may impact the county going forward.



A memo to county councilmembers said the pandemic likely increased population and employment growth beyond what was expected under its last comprehensive plan.

However, "it is still too soon to confidently distinguish between the temporary effects of Covid and long-term changes on many issues," it said.

And there's plenty of time for new transportation investments, development regulations and other data to crop up before 2024, when the county will officially update its long-term plan. A reconciliation process can take place after that to adjust growth targets.

The county also still faces questions on how it might curb growth in towns where development could ex-

ceed modest targets. Overall, the county aims to reduce the rate of population growth in rural areas.

The city of Sultan, Toy said, has permit applications already in the pipeline that, if approved, would represent 84% of its 2044 growth target.

One fix officials may have to consider, he said, is a moratorium on new development permits.

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