

# APARTMENTS VS. CONDOMINIUMS

The Real Story

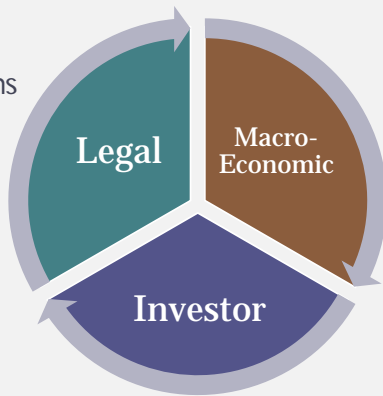
Corbitt Loch, Moderator



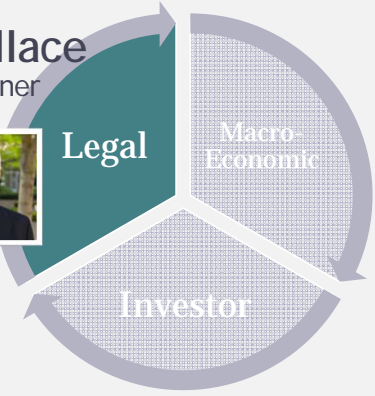
Apartments vs. Condominiums



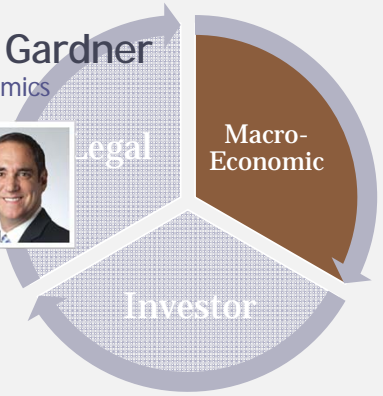
Apartments vs. Condominiums



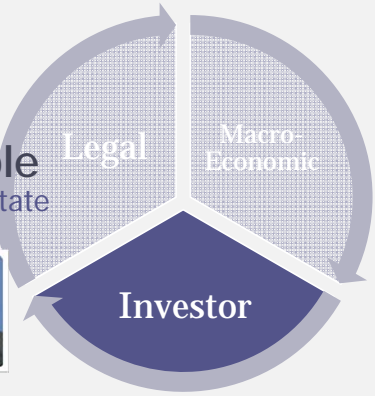
Alan Wallace  
Williams Kastner

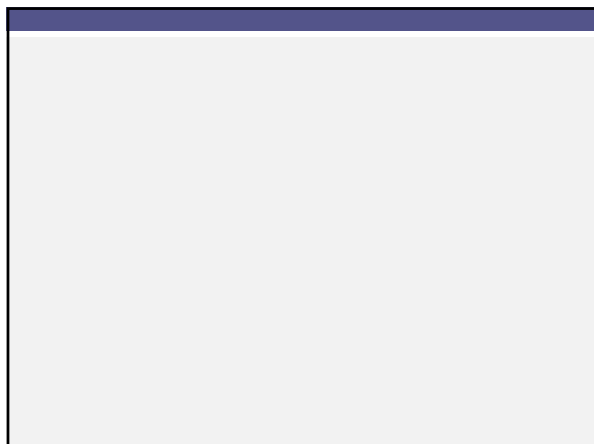


Matthew Gardner  
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Willis Cole  
Coast Real Estate





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## Zoning Police Power and Condominiums Verses Apartments: What, When and How

**APA WA Planning Conference  
October 3, 2013**

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## Discussion Points

- I. What is a legal condominium?
- II. How can a city regulate condominiums verses apartments?
  - A. Scope of municipal zoning police power
  - B. Constitutional bar to imposing regulations affecting condominium development
  - C. Condo conversion ordinances
- III. SEPA Review – Traffic impacts of condos verses apartments

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## I. What is a legal condominium?

- › Essentially is the recording of a covenant upon title to real property with the County Recorder's Office
- › Covenants are private contracts subject to all law of contracts
- › RCW 64.34 Condominium Act
  - "Condominium" means real property, portions of which are designated for separate ownership, and remainder vested in common ownership by the unit owners.
  - Created by the owner recording a declaration, survey map and plans in the same manner as recording a deed.

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## II. How can a city regulate condominiums verses apartments?

- › Short answer: Cities cannot regulate condominium development distinct from rental apartments. With the exception of limited authority over conversion of rental units to condominium ownership.
- › Why: Broad power to enact laws under a city's police power authority has limits.

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## A. The scope of municipal police power is broad:

- › Municipal police power is as extensive as that of the state legislature, so long as the subject matter is local and the regulation does not conflict with state laws.
- › The scope of police power is broad, encompassing all those measures which bear a reasonable and substantial relation to promotion of the general safety, health and welfare of the people.

*Weden v. San Juan County*, 135 Wn.2d 678 (1998)  
(County ordinance regulating use and operation of jet skis affirmed as lawful exercise of police power.)

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## B. Bar to regulating form of ownership of multi-family buildings

- Zoning deals with land use, not the owner, operator or occupant of land.  
*(Rathkopf, Law of Zoning and Planning, §2.03 [b].)*
- Matters not affecting the actual physical use of land are not proper matters for exercise of zoning police power authority.  
*(Catholic Family Services v. City of Bellingham, 25 Wn.App. 33 (1979).)*

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## B. Bar to regulating form of ownership of multi-family buildings

- Land use rights attach to the land itself and are not personal to the current owner or tenant.  
*(City of University Place v. McGuire, 102 Wn.App. 658 (2000).)*
- Zoning police power does not authorize municipal regulation of the right to sell or buy real property.  
*(Olympia v. Palzer, 42 Wn.App. 751 (1986).)*

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## C. Condominium conversion ordinances

- (1) Notice
- (2) Right of first refusal to purchase
- (3) Inspection of units for building code compliance prior to sale

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## III. SEPA review – traffic impacts of condos versus apartments

*Trip Generation* (ITE, 9th Edition, 2012) for the "Apartment" and "Residential Condominium/Townhouse" land use categories.

Average Trip Rates for Apartment

- 6.65 daily vehicular trips per dwelling unit
- 0.62 weekday PM peak hour trips per dwelling unit
- Based on ~90 unique trip generation studies throughout the U.S. and Canada

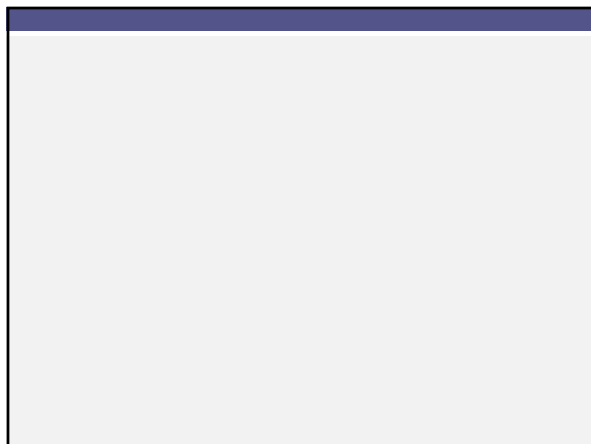
Average Trip Rates for Condo/Townhouse

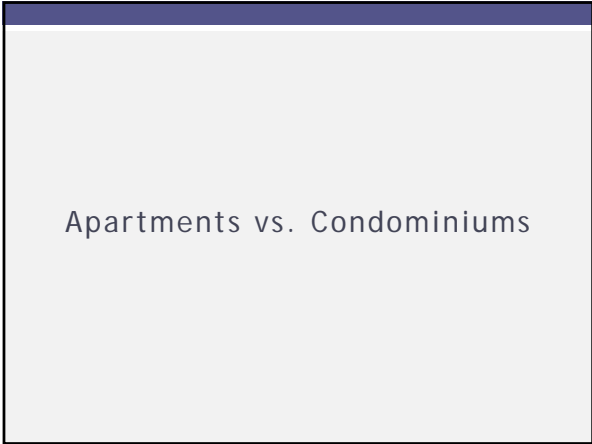
- 5.81 daily vehicular trips per dwelling unit
- 0.52 weekday PM peak hour trips per dwelling unit
- Based on ~60 unique trip generation studies throughout the U.S. and Canada

These data suggests an Apartment building generates ~15% more daily vehicular trips and ~20% more weekday PM peak hour vehicular trips than a condotownhouse building of similar size.

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Apartments vs. Condominiums

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## Condominiums vs Apartments

### The Real Story

American Planners Association - Washington Chapter

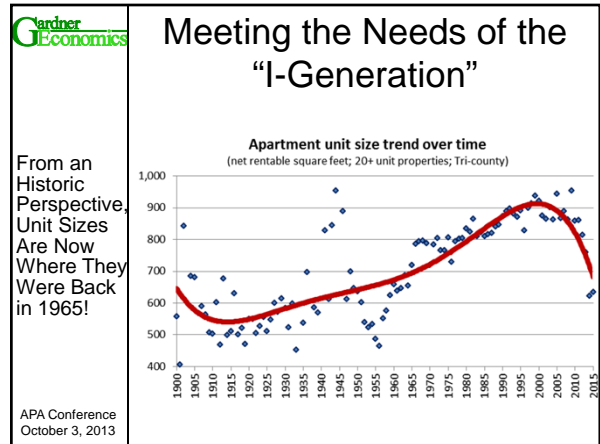
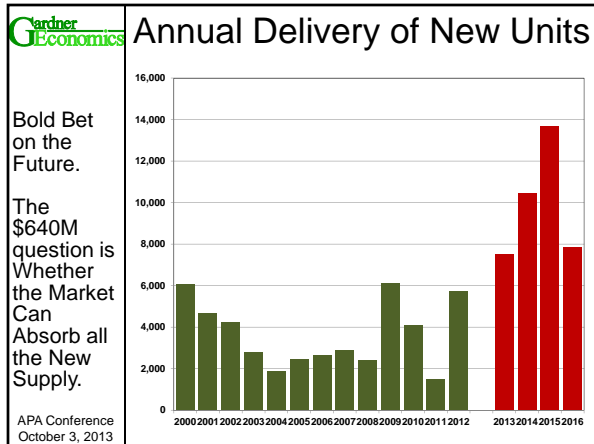
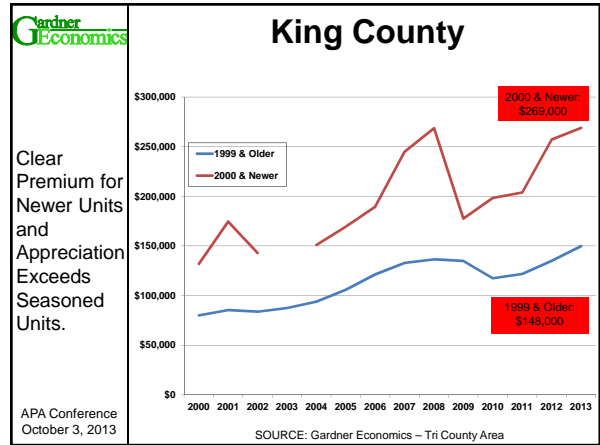
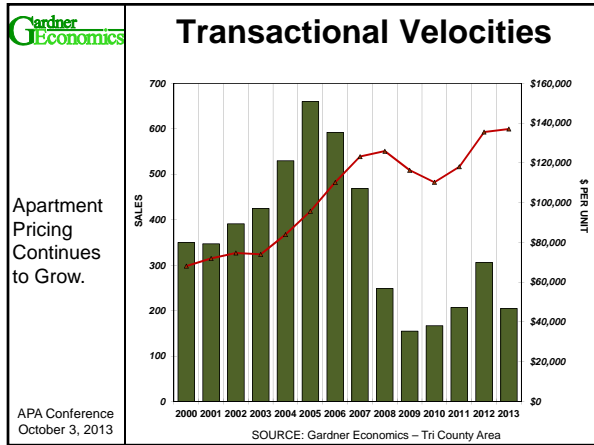
Meydenbauer Center, Bellevue, Washington

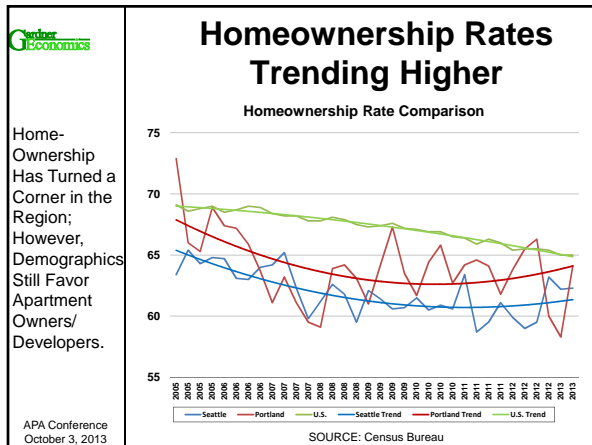
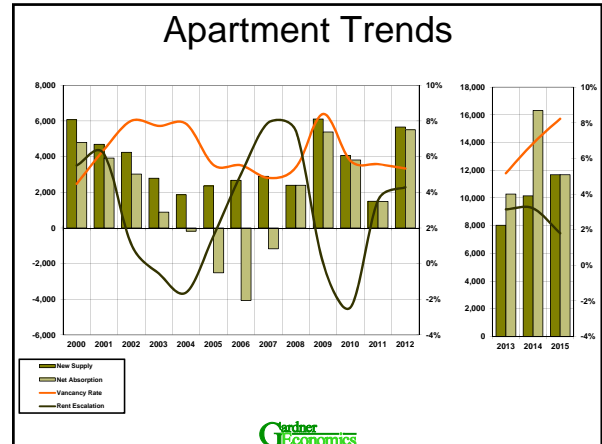
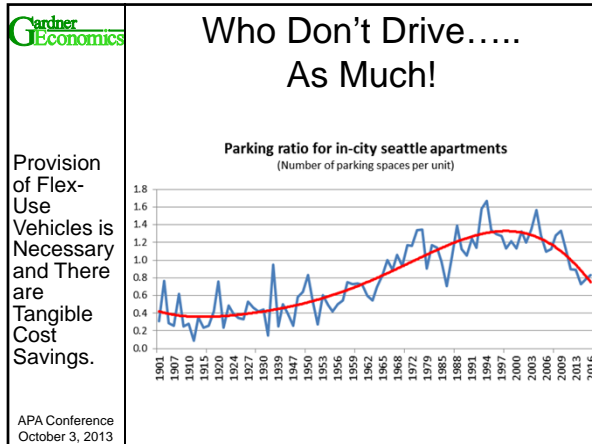
Presented by: **Matthew Gardner**, Managing Principal  
 October 3, 2013 524 Second Ave, Suite 500  
 Seattle, WA 98104 206.442.9200

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## The Apartment Market

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**Apartment Outlook**

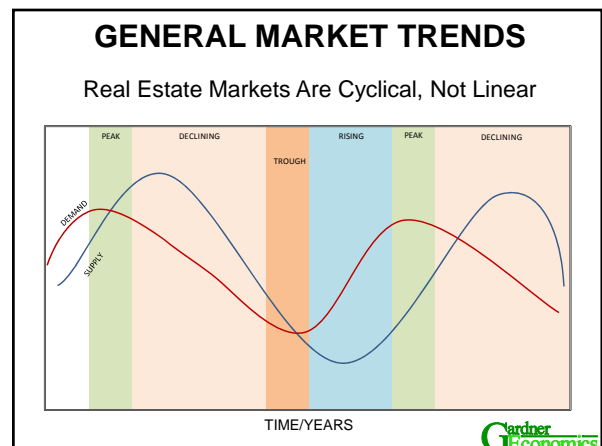
1. Millennials – When they Get a Job – Won't Live in the 'Burbs!
2. Rising Interest Rates Can Hurt, But they Can Help Too!;
3. Rate of Rental Growth is Peaking; And
4. There are Warning Signs that Need to be Addressed.

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**Warning Signs**

- Markets Always Play Catch Up;

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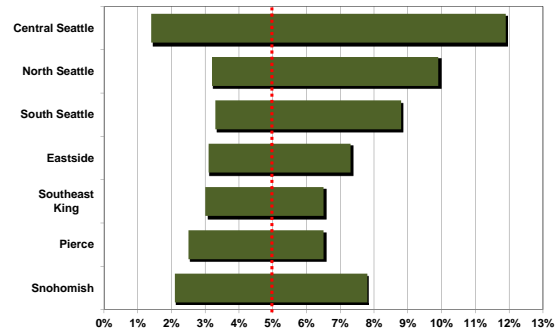


### Warning Signs

- Markets Always Play Catch Up;
- I Still See the Potential for Overbuilding in *Select Sub-Markets*; and
- Home Value Growth & Rising Interest Rates Are Changing Housing Choices.



### Vacancy Rate Forecast ('14-'15)



### The For Sale Market



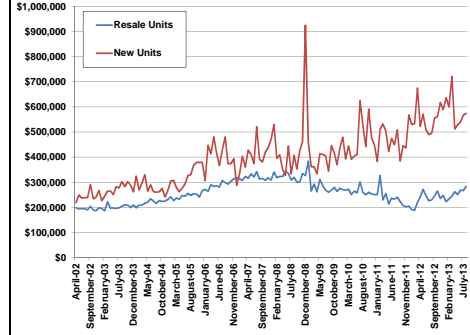
Spike Due to 1521 Second Avenue!

New Values Frenetic Due to Supply Constraints.

Resale Market Not Recovered As Many Owners are Still Underwater.

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### Condominium Values King County

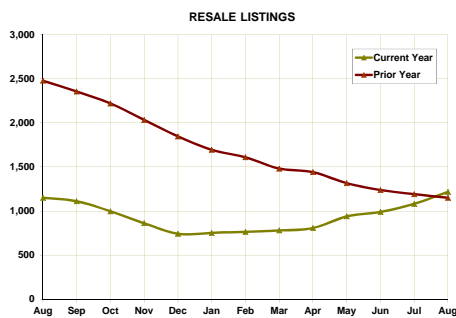


SOURCE: Gardner Economics



### Listing Activity King County

Although at Last Years Levels, Available Inventory Levels are Still Woefully Low.



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SOURCE: Gardner Economics



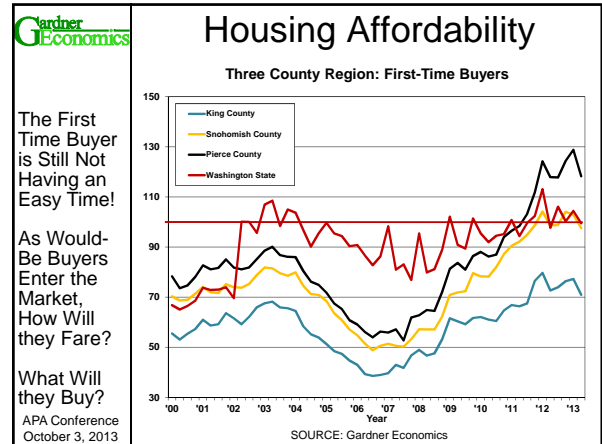
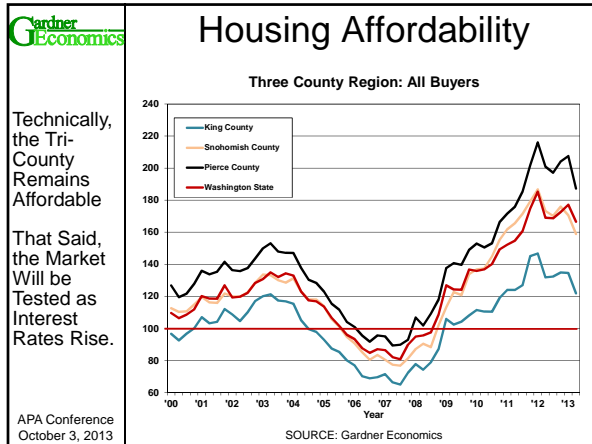
### Listing Activity King County

The Bigger Picture Tells a Far Worse Story.



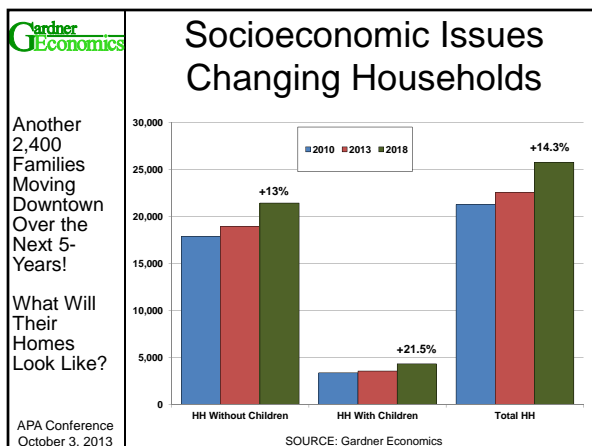
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### Comparisons

<p><b>APARTMENTS</b></p> <ul style="list-style-type: none"> <li>Financing Available for Development;</li> <li>Long-Term Demographics are Favorable;</li> <li>Oversupply Issues are Relative;</li> <li>Urban vs Suburban Demand;</li> <li>Conversions are Not Likely?</li> <li>Rental Growth Will Exceed Inflation – For Now;</li> <li>Vacancy Rates Likely to Peak in 2016;</li> <li>Mass Transit is No Panacea.</li> </ul>	<p><b>CONDOMINIUMS</b></p> <ul style="list-style-type: none"> <li>Still Difficulty in Financing Larger Projects;</li> <li>Homebuyer Financing Expensive;</li> <li>Land Values &amp; Construction Costs are Escalating;</li> <li>Demand Limitations;</li> <li>Conversions are Unlikely;</li> <li>Who are the Buyers?;</li> <li>Is the “Forced Savings” Argument Still Valid?</li> <li>What About Families?;</li> <li>Can We “Over-Densify”?</li> <li>Maybe Downtown isn’t the Answer!</li> </ul>
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## Economic Trends and Outlook

### Questions?

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## Follow My Thoughts!



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[Matthew Gardner](#)

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