



**Washington Association
of Sewer & Water Districts**
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PRESS RELEASE

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Court Rules on Rent to Utilities for Use of Rights-of-Way

KING COUNTY, WA — On August 1, 2018, King County Superior Court Judge Samuel Chung issued an oral ruling granting summary judgment to water, sewer and electric utilities that King County cannot charge the utilities rent for the use of county roads and rights-of-way. A formal order reflecting the Court's decision will be prepared and presented to the Court in the near future.

On November 7, 2016, the King County Council adopted Ordinance 18403 purporting to authorize the imposition and collection of "rent" from water, sewer, gas and electric utilities using county roads and rights-of-way. The County anticipated the Ordinance would generate \$10,000,000 per year for the County's general fund. On December 29, 2017, King County's Facilities Management Division adopted Rules for Determining Franchise Compensation intended to implement the Ordinance. The Rules went into effect on January 29, 2018.

On January 25, 2018, King County filed a lawsuit in King County Superior Court (Case No. 18-2-02238-0 SEA) against 21 water-sewer districts that had opposed the County's adoption of the Ordinance and Rules. The County sought a declaratory judgment that the Ordinance and Rules were valid. The water-sewer districts filed counter-claims against the County challenging the validity of the Ordinance and Rules, including a claim that water-sewer districts have the right to locate their facilities in county roads and rights-of-way without having to pay rent to the County. A group of non-profit water associations and an electric utility intervened in the lawsuit and also challenged the County's ability to charge rent for their use of county roads and rights-of-way. The Court granted the motions for summary judgment filed by the water-sewer districts and the intervenors and ruled that the County cannot charge rent for the use of county roads and rights-of-way.

Contact: Blair B. Burroughs, Interim Executive Director
206.246.1299 ■ 800.244.0124
blair@WASWD.org

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