# BEPS Rulemaking Update

## Meeting with Commercial Real Estate

December 9, 2024

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# Welcome & Introductions

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# Welcome!

- Icebreaker (in chat)
  - Name, role, organization
  - What’s your favorite building in Seattle and why?

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# OSE and Consultant Team for Rulemaking

**OSE Team**

OSE Deputy Director, BEPS Program Manager, Rulemaking Advisor, Outreach Spec.

**Technical / Analysis Consultant**

SBW Consulting Inc.
*WMBE Firm*

**Facilitators**

Unrooz Solutions
*WMBE Firm*

# Rules of Engagement

- **Mutual respect** - All working group participants and facilitators are respectful of each other. Members will value each other's time, listen when people are speaking, and speak kindly to each other.
- **Open-mindedness** - Members are open to new ideas and perspectives, and do not disregard ideas they disagree with.
- **Equity** - All members are treated fairly, both by the facilitation team and by one another. Efforts are made to eliminate any real or perceived barriers to participation.
- **Be present** - You reserved the time to be here. Avoid outside distractions as much as possible but take care of your personal needs.
- **Accountability for Accuracy** - When sharing data and information make sure it is accurate and be prepared to provide a credible reference.
- **Chatham House Rule** - Participants are free to use the information received in meetings but should not identify the speaker or their affiliation.

# Agenda

- **Welcome + Introductions** (5 minutes)
  - Consent to record
- **Introduction to BEPS Rulemaking Process** (20 minutes)
- **Flexibility measures in BEPS important to commercial real estate** (10 minutes)
  - Extension for pre-existing financial distress
  - Extension for high rental vacancy
- **Breakout Discussions** (30 minutes)
- **Break** (5 minutes)
- **Flexibility measures in BEPS important to commercial real estate cont.** (20 minutes)
  - Presentation & group discussion: Deduction for district energy (steam), Compliance with private building portfolios, Custom decarbonization compliance plans
- **Open Discussion** (25 minutes)
- **Wrap-up & Next Steps** (5 minutes)

# Introduction to the BEPS Rulemaking Process

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"The Building Emissions Performance Standards (BEPS) policy continues Seattle's leadership on climate action and represents a milestone for our city's efforts to reduce greenhouse gas emissions and build healthy communities," said Mayor Bruce Harrell.

"This bold legislation will not only create cleaner buildings for people to live, work, and play in, but also hundreds of local jobs and build pathways to careers in the green economy…"

*Mayor Bruce Harrell,*
*BEPS Press Release, December 13, 2023*

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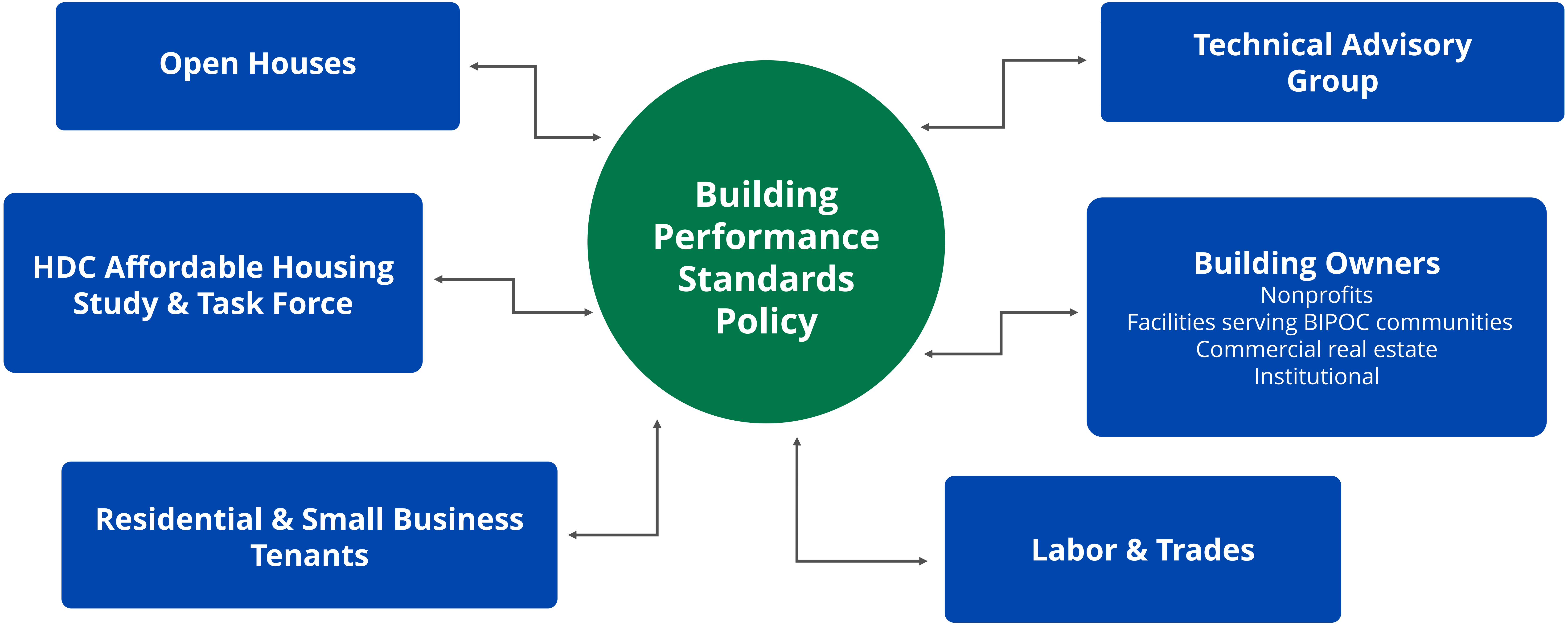
# Many voices helped shape the legislation



# Next steps for 2024 -2025:
# Director’s Rule or “Rulemaking” process

| 2022 - 2026 | 2027 - 2030 | 2031 - 2035 | 2036 - 2040 | 2041 - 2045 | 2046 – 2050 |
|---|---|---|---|---|---|

**2022 - 2026:** Policy Development / Support / Launch Tools

**Director’s Rule**
2024 - Mid-2025

**2027 - 2030:** Benchmarking Verification GHG Report & Start Reductions

Nonresidential Emissions Targets — Net-Zero Targets

Multifamily Emissions Targets* — Net-Zero Targets

*Extension for affordable housing & human services until 2036-2040 to meet targets.

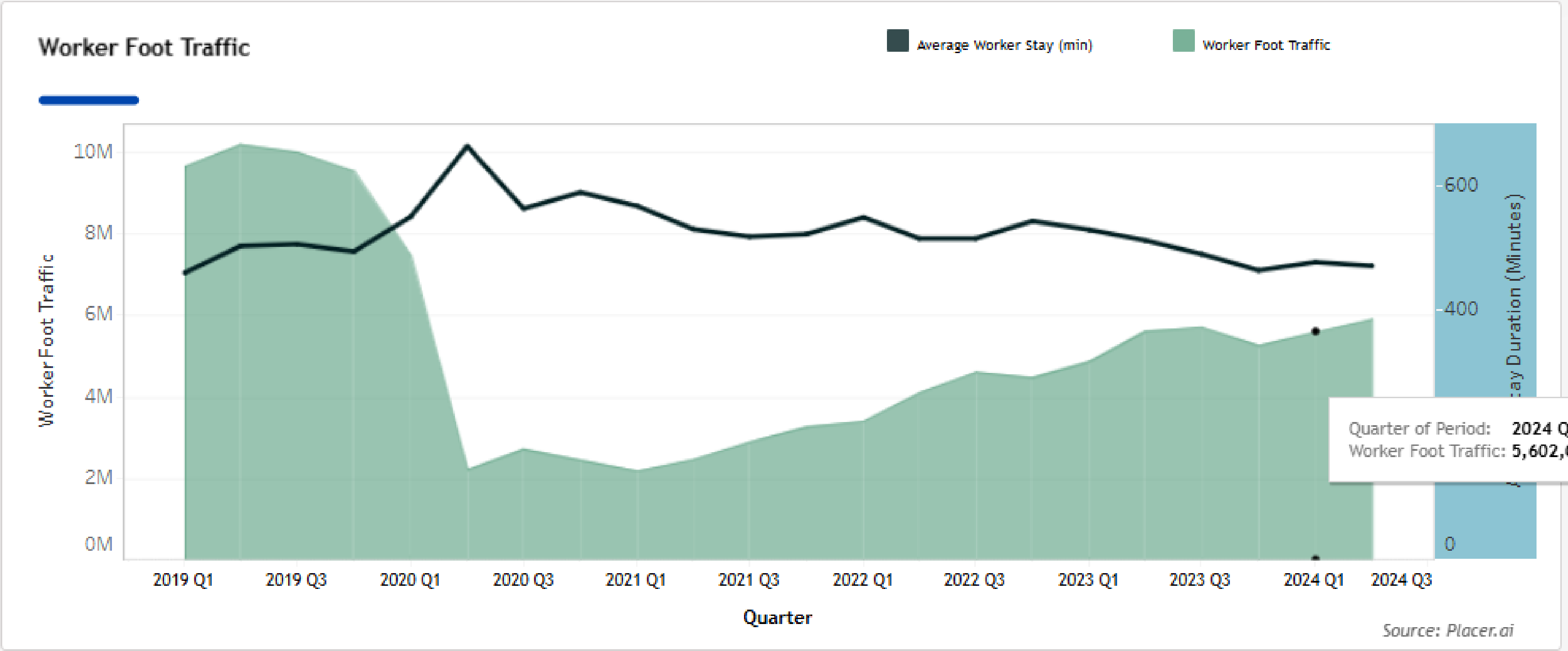
Technical and Financial Support

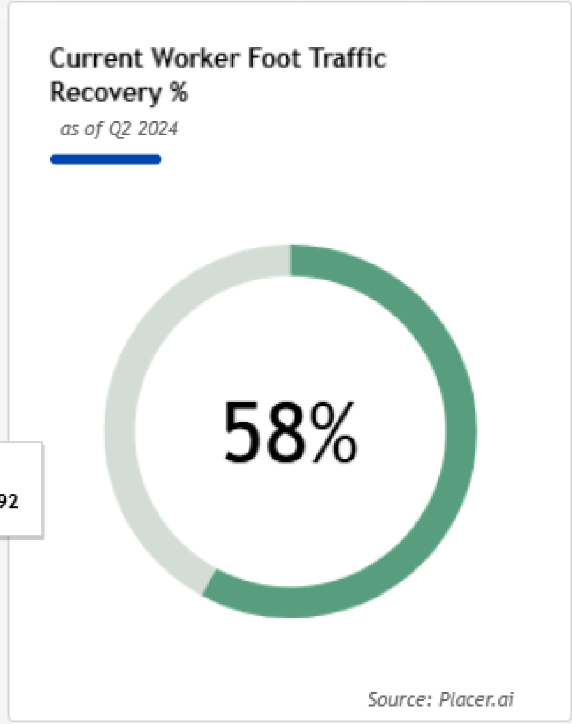
**State of WA Clean Buildings Performance Standard**

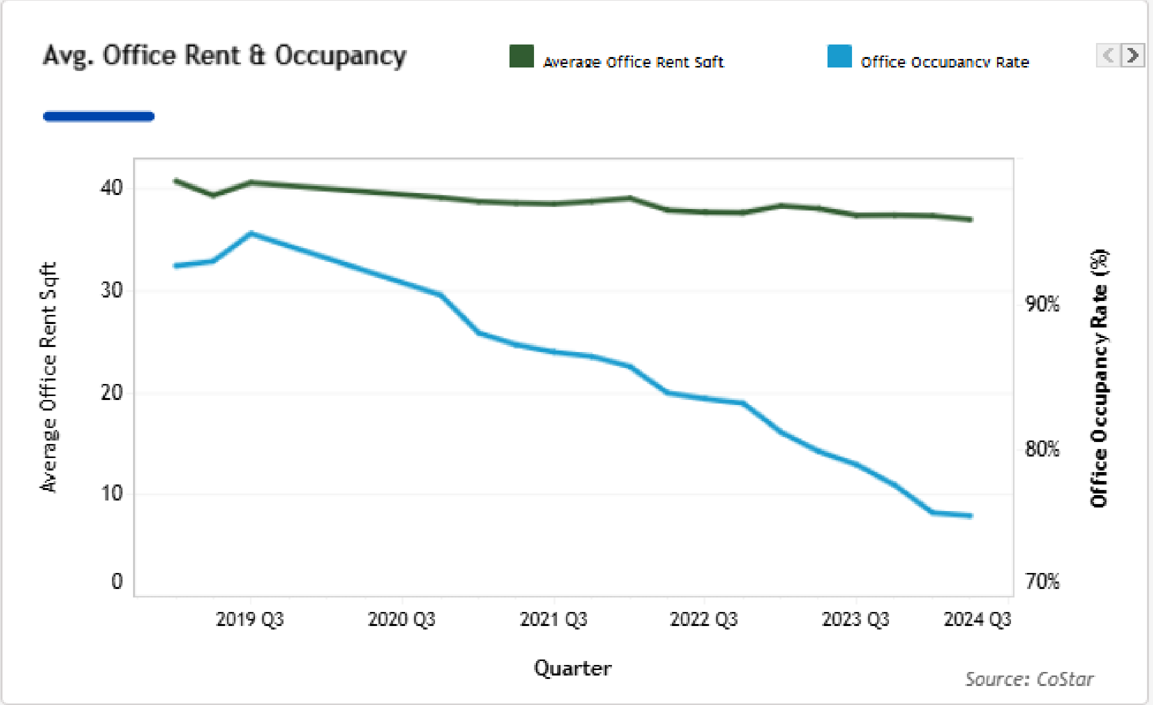
**2026 -** 1st Energy Targets
Commercial >50K

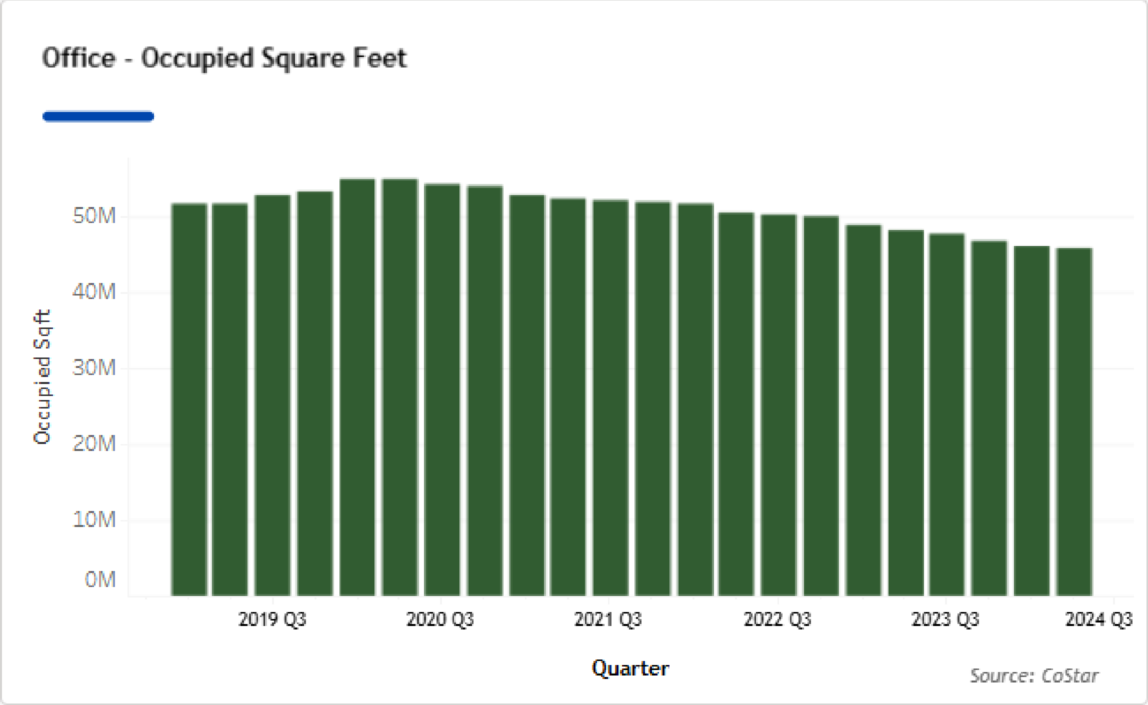
**2031 >>** Future Energy Targets – To be Determined by Rule
Commercial & Multifamily >20K

# We recognize the on-going challenge for downtown




Downtown is → you

**Mayor Harrell's Downtown Activation Plan**

**"Create a healthy, resilient, and green downtown"**

Seattle BEPS is one of the eight initiatives towards this goal.

[https://www.downtownisyou.com](https://www.downtownisyou.com)

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# What does BEPS require of building owners?

## Every five years:

- **Energy Benchmarking Verification:** Verify previous year's building energy use and emissions. *By 2027–2030*
- **GHG Report:** Document current GHGI/GHGIT and equipment, and plan actions to achieve targets. *By 2027–2030*
- **Meet Greenhouse Gas Intensity Targets (GHGIT).** *By 2031–2035*
- **Achieve** net-zero emissions with narrow exceptions. *By 2041–2050 (depending on building type and size)*

Existing **Building Tune-Ups** requirements will sunset after the 2023-2026 compliance cycle is done.

# Three compliance pathways for greatest flexibility

## PATH A:
Meet standard or building portfolio/ campus GHGI Targets at all five-year compliance intervals

### Compliance Includes:
- Benchmarking Verification
- GHG Report
- Meet standard GHGI Targets
- Achieve Net Zero by 2041-2050

### Emissions Deductions:
Emergency generators, district steam, and fossil fuel cooking, in-unit condo equipment, process loads & more.*

## PATH B:
Comply with extension or basic alternate compliance.

### Extensions:
Extended timeline for low-income/rent housing to meet GHGIT, financial distress, new construction, high vacancy

### Alternate Compliance:
- ACP payment in lieu of GHGIT 2031-2035
- Multifamily prescriptive paths
- Alternate GHGIT (a custom percent reduction target)

## PATH C:
Custom timeline or targets due to hardship or unique circumstances.

### Decarbonization Plans:
- Net-Zero by 2050
- Low-Emissions by 2050

Require audit & cost analysis.

**Hardship Eligibility Criteria:**
Conflicts with historic status, sub-alt, or seismic upgrade, infeasible for low-income multifamily or structural/electric upgrades & more.

### District Campus Decarbonization Plan:
For campuses with district energy

**Exemptions:** Electric only buildings exempt from GHGI Targets and building demolition (all requirements.)

** Some deductions are time limited. Can be used for paths B & C.*

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# Standard BEPS emissions targets (GHGIT)

2031-35 established in law; 2036-40 and later may be updated by future rule Dec 31, 2031

| Building Activity Type | 2031 - 2035 | *2036 - 2040*[1] | *2041 - 2045*[1, 2] | *2046 - 2050*[1, 3] |
|---|---|---|---|---|
| **College/University** | 2.69 | *1.57* | *0* | *0* |
| **Entertainment/ Public Assembly** | 1.18 | *0.69* | *0* | *0* |
| **Fire/Police Station** | 2.23 | *1.30* | *0* | *0* |
| **Hospital** | 4.68 | *2.73* | *0* | *0* |
| **Hotel** | 2.06 | *1.20* | *0* | *0* |
| **K-12 School** | 0.95 | *0.56* | *0* | *0* |
| **Laboratory** | 6.30 | *3.68* | *0* | *0* |
| **Multifamily Housing** | 0.89 | *0.63* | *0.37* | *0* |
| **Non-Refrigerated Warehouse** | 0.77 | *0.45* | *0* | *0* |
| **Office** | 0.81 | *0.47* | *0* | *0* |

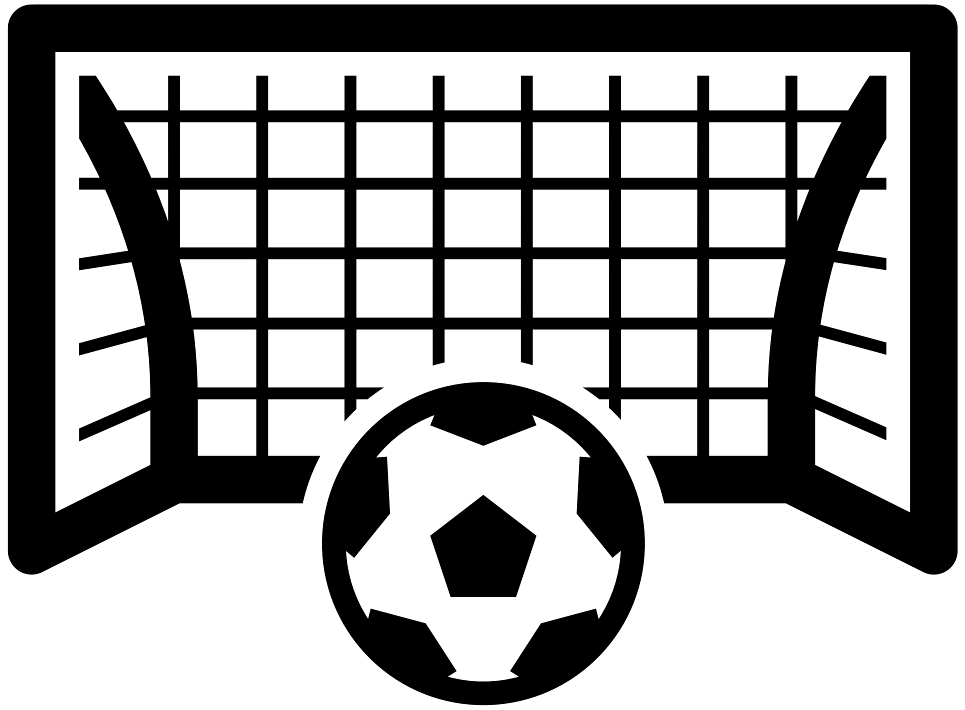
| Building Activity Type | 2031 - 2035 | *2036 - 2040*[1] | *2041 - 2045*[1, 2] | *2046 - 2050*[1, 3] |
|---|---|---|---|---|
| **Other** | 2.48 | *1.45* | *0* | *0* |
| **Recreation** | 3.22 | *1.88* | *0* | *0* |
| **Refrigerated Warehouse** | 0.98 | *0.57* | *0* | *0* |
| **Residence Hall/ Dormitory** | 1.16 | *0.68* | *0* | *0* |
| **Restaurant** | 5.73 | *3.34* | *0* | *0* |
| **Retail Store** | 1.03 | *0.60* | *0* | *0* |
| **Self-Storage Facility** | 0.31 | *0.18* | *0* | *0* |
| **Senior Living Community** | 2.11 | *1.23* | *0* | *0* |
| **Services** | 1.36 | *0.79* | *0* | *0* |
| **Supermarket/ Grocery Store** | 3.42 | *2.00* | *0* | *0* |
| **Worship Facility** | 1.20 | *0.70* | *0* | *0* |

1 – Targets may be revised by future rule, per subsection 925.070.A.
2 – Net-zero emissions by 2041-2045 for nonresidential.
3 – Net-zero emissions by 2046-2050 for multifamily housing.
4 – Pursuant to Section 22.925.110, owners of low-income housing, human service use, and low-rent housing may receive an extension from meeting the GHGITs in 2031-2035 but still must meet benchmarking verification and all other reporting obligations for 2031-2035.

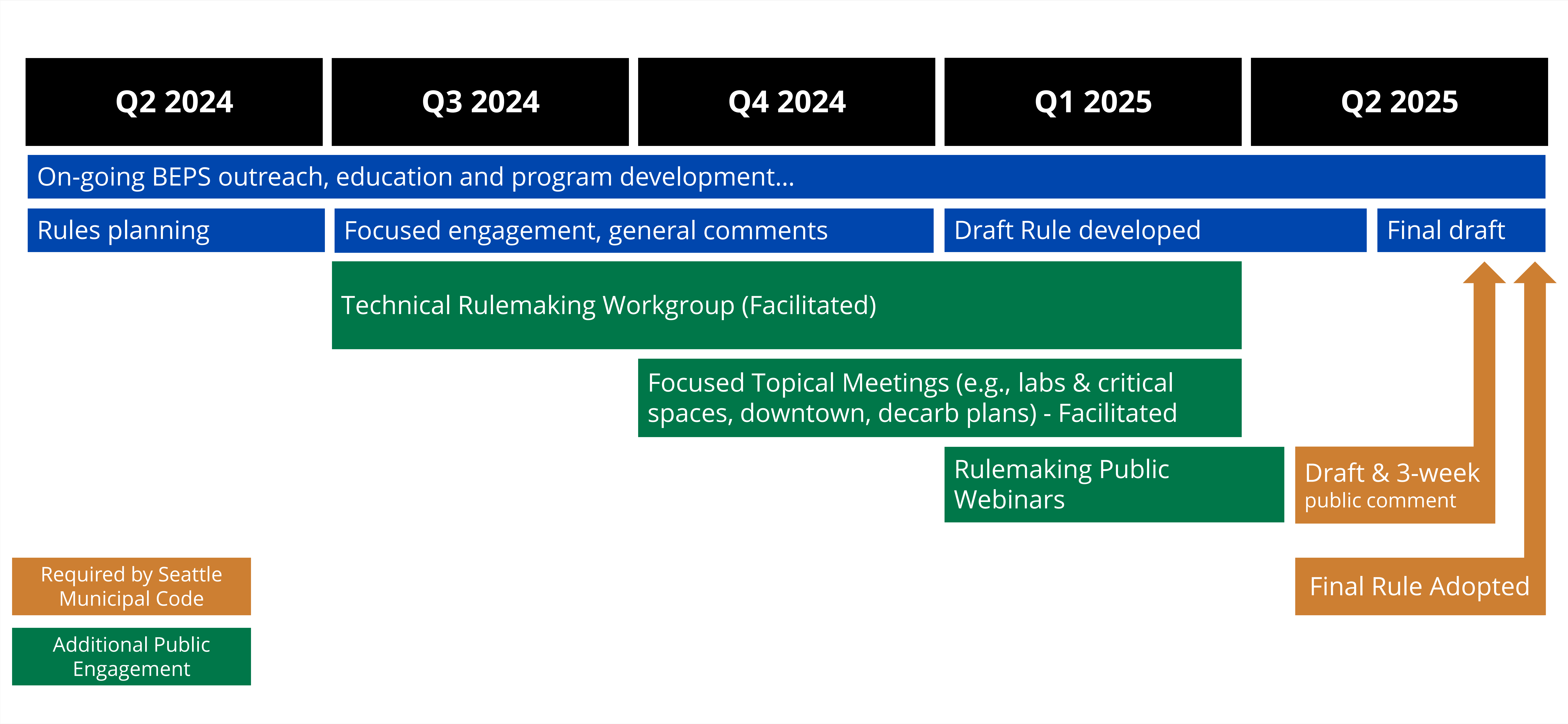
# Rulemaking Goals for OSE

Per Seattle Municipal Code a Director's Rule is the required next step to clarify ordinance elements (e.g., timeline for exemptions requests, documentation required.)

- ✓Engaged key stakeholders who have an opportunity to constructively contribute
- ✓A rule that maintains the stringency of BEPS and explains how to use the flexibility
- ✓A readable, approachable final Director’s Rule document



# Director’s Rule Timeline Overview

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# Topics covered in technical rulemaking workgroup meetings

| Meeting # | Topics | Date |
|---|---|---|
| 1 | Intro + Standard compliance with one building | July 11 |
| 2 | Standard compliance with building portfolio and connected buildings | July 30 |
| 3 | Review mtgs 1 & 2; Alternative Compliance: Alternate GHGIT, Multifamily Path | September 11 |
| 4 | Energy benchmarking verification | October 9 |
| 5 | End use deductions | November 20 |
| *6* | *Extensions + exemptions* | *December 18* |
| *7* | *Decarbonization plans (low emissions and net-zero)* | *January 15* |
| *8* | *Review + Unfinished Business* | *TBD* |

**Meeting notes and slides at:**
https://www.seattle.gov/environment/climate-change/buildings-and-energy/building-emissions-performance-standard/beps-rulemaking

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# 2025 is the Foundational Rule – Updates to come!

| **Rulemaking Dates Listed in the Adopted Ordinance** | **By Dec 31st**<br>***By Oct 1st** |
|---|---|
| 1st Director's Rule Required (The Big Lift needed to launch program!) | Q2 2025 |
| 2031-35 Emissions Factors, Raise ACP cost for 2031-35, Final 2031-35 Laboratory GHGIT | 2027 |
| 2036-40 GHGITS; Emissions Factors 2036-40 | 2031 |
| Revised Penalty Amounts 2036-40 | 2034* |
| 2041-45 GHGITS; Emissions Factors 2041-45 | 2036 |
| Revised Penalty Amounts 2041-45 | 2039* |
| 2046-50 GHGITs; Emissions Factors 2046-50 | 2041 |
| Revised Penalty Amounts 2046-50 | 2044* |

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# Questions?

# Flexibility measures in BEPS important to commercial real estate

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# Flexibility measures in BEPS important to commercial real estate

1. Extension for pre-existing **Financial Distress**
2. Extension for **High Rental Vacancy**
3. Deduction for **District Energy** (Steam)
4. Compliance with **Private Building Portfolios**
5. Custom **Decarbonization Compliance Plans**

# Flexibility measures in BEPS important to commercial real estate

| Building already struggling financially? | Building OK, but needs more time? | Building has a unique scenario or hardship? |
| --- | --- | --- |
| • Extension for pre-existing **Financial Distress**<br>• Extension for **High Rental Vacancy** | • Deduction for **District Energy** (Steam)<br>• Compliance with **Private Building Portfolios** | • Custom **Decarbonization Compliance Plans** (Net-Zero or Low-Emissions by 2050) |

# Extension for Financial Distress

(SMC 22.925.020) "Covered buildings under **pre-existing financial distress** at their compliance date **may receive an extension** from meeting the requirements of this Chapter 22.925 **for each compliance interval they remain under financial distress**."

*Enables owners that can show the building is already in financial distress to get a 5-year extension from benchmarking verification, the GHG Report and meeting GHGI target.*

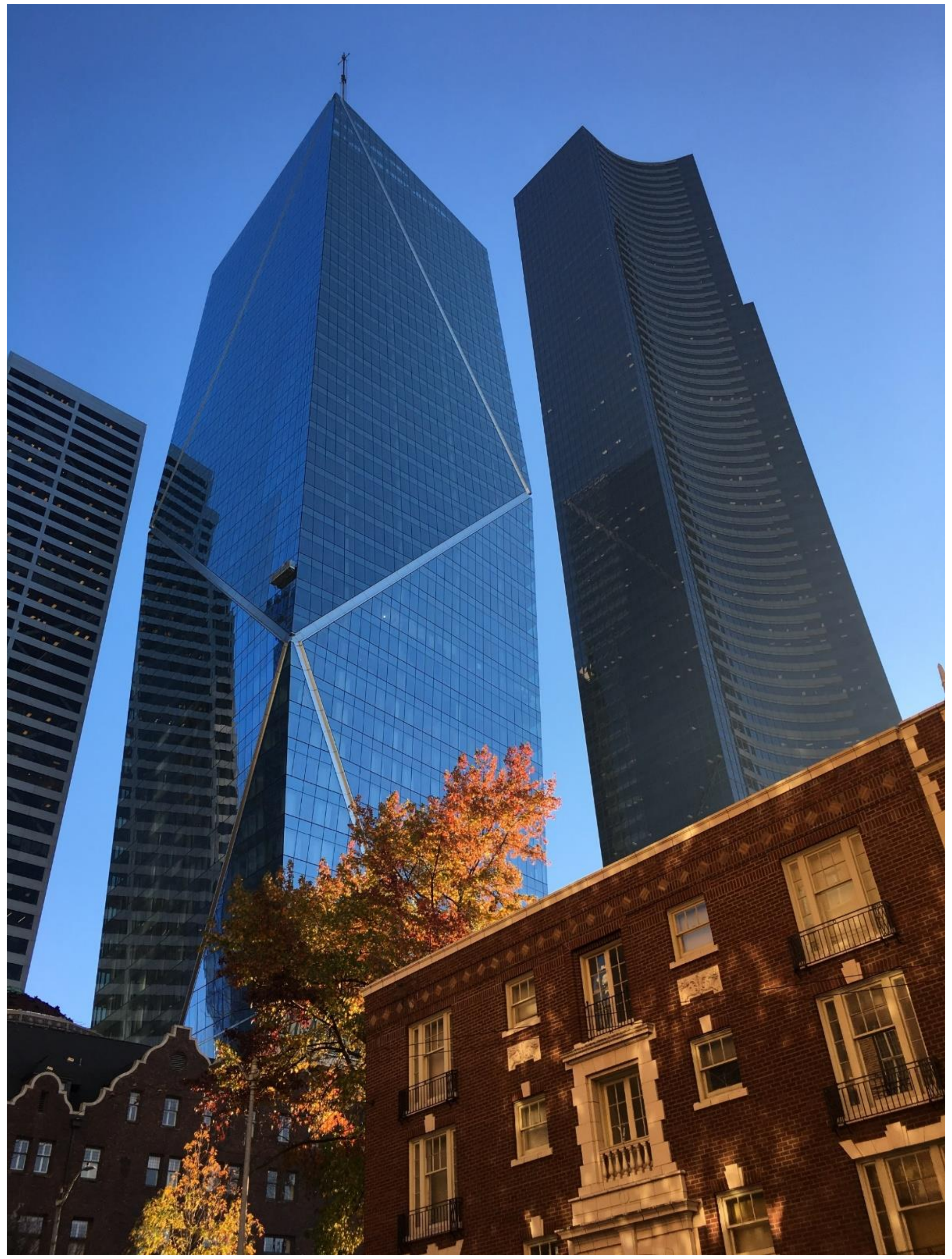
**Building owners must document one of the following pre-existing conditions:**

1. Building has had **arrears of property taxes** or water or wastewater charges that resulted in the building's inclusion, within the prior two years, on a King County annual tax lien sale list;
2. Building has a **court-appointed receiver** in control of the asset;
3. Building is owned by a financial institution through **default by a borrower**;
4. Building has been acquired by a **deed in lieu of foreclosure** within the previous 24 months;
5. Building has a senior mortgage subject to a **notice of default**; or
6. Other conditions determined by rule.

# Extension for High Rental Vacancy

(SMC 22.925.110) "A covered building with a **high rental vacancy rate, as determined by rule**, during a consecutive 12-month period within the 36-months preceding the relevant compliance date may receive an extension from meeting the GHGIT for one compliance interval. Building owners must still meet benchmarking verification and all reporting obligations."

*Enables owners that may have a current cash-flow issue related to high vacancy, but not full "financial distress," to get a 5-year extension meeting the GHGI target.*



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# Precedent for high rental vacancy extension

**Building Tune-Ups** ordinance includes provision for an extension when a building has high rental vacancy:

> "Buildings with less than a 50% occupancy rate in nonresidential spaces during a consecutive 6-month period within the 12-months preceding the compliance date. The Building Owner must submit clear evidence of a minimum 50% vacancy with the Tune-Up Extension Request."

# Defining "Vacancy" in BEPS

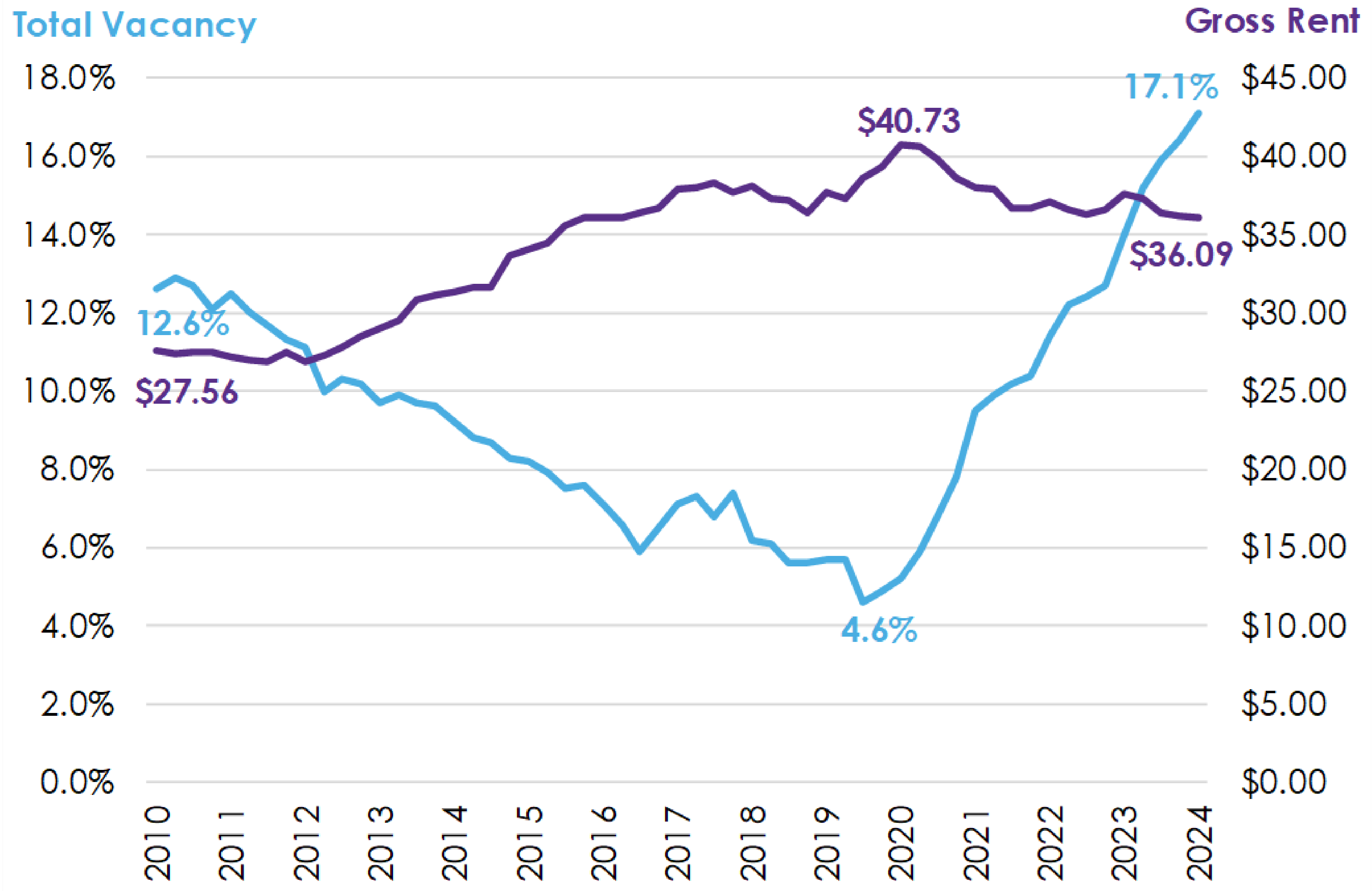
- **Vacant spaces in buildings are not leased**
  - Physically vacant space isn't be leased, doesn't have equipment for tenant/business needs (except for showing), and the lighting and mechanical systems may be shut down
  - Space in the building considered "common space (lobby, parking, elevator, etc.), mechanical space, space reserved for the owner, or space that is leased but not occupied can't be included in the calculation of vacant space
  - Spaces in buildings where tenants primarily work from home are not considered vacant

**For discussion today:**

Other issues the City should know & consider for defining vacancy.

# Market conditions

**Office Overall Gross Rent & Total Vacancy Rate, City of Seattle Boundaries, 2010-2024**




*Source: CoStar, 2024; Community Attributes Inc, 2024.*

- OSE worked with consultants from Community Attributes Inc. to get CoStar data
- Findings confirmed what we have heard from stakeholders about market conditions
  - Office vacancy remains high (17.1% as of Q1 2024)

**For discussion today:**

The percent (%) vacancy for offices/CRE to set in the BEPS Director’s Rule and why.

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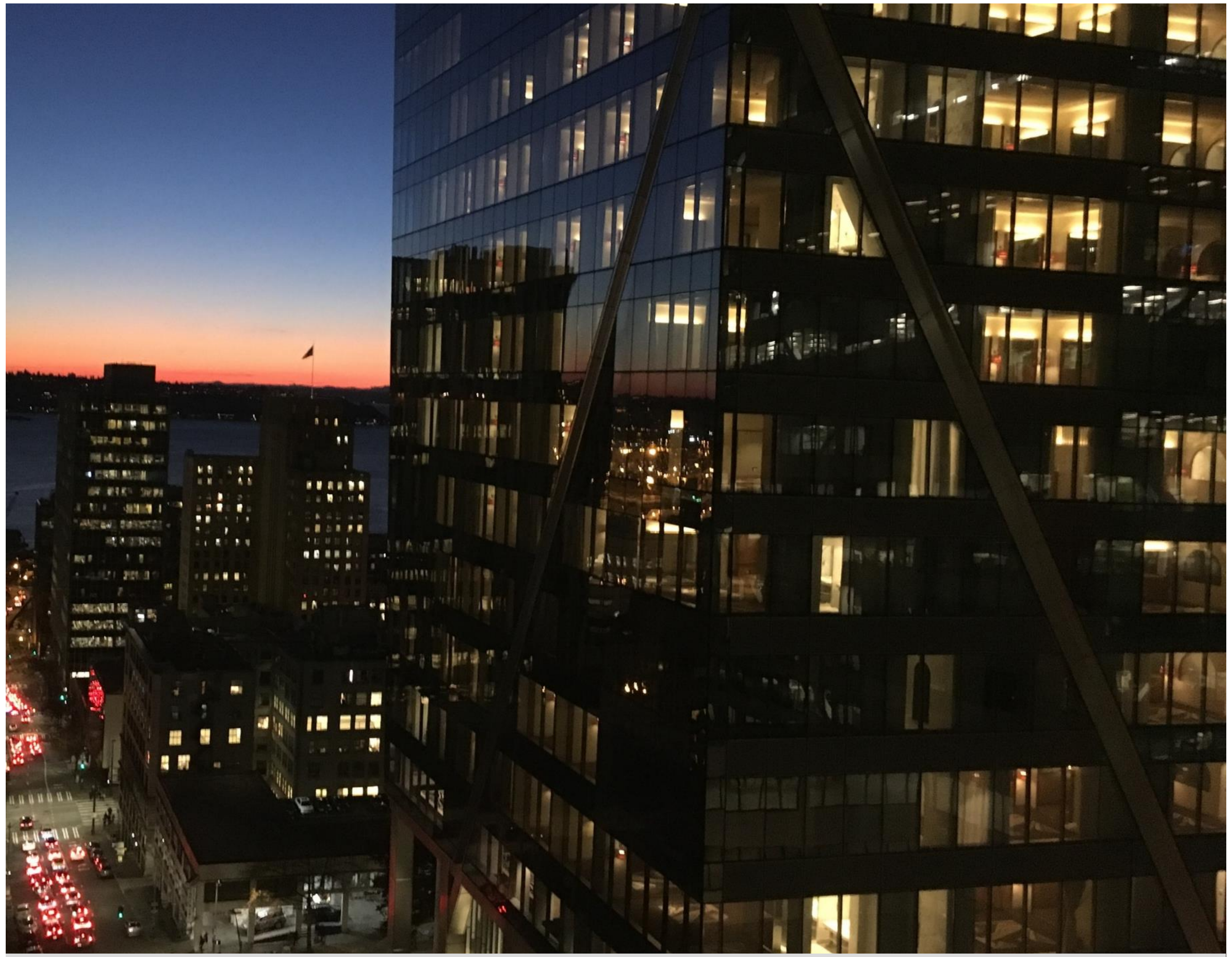
# Demonstrating vacancy

- Building Tune-Ups required documentation:
  - Total gross floor area (GFA) excluding parking
  - Total vacant nonresidential GFA
  - Vacancy starting date and ending date
  - Short summary of the reason(s) for the vacancy
- Other potential documentation methods:
  - Lease rolls, photos, verification in CoStar



**For discussion today:**

Documentation to demonstrate eligibility for a high rental vacancy extension.

# Discussion in breakout groups

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# Breakout Session

**Two breakout discussion groups:**

1. Other issues the City should know & consider for defining vacancy.
2. The percent (%) vacancy for offices/CRE to set in the BEPS Director's Rule and why.
3. Documentation to demonstrate eligibility for a high rental vacancy extension.

A. Davey *Seattle Skyline*

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# Share out


# BREAK

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# Deduction for District Energy (Steam)

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# What are end use deductions?

(SMC 22.925.120) "Building owners may **deduct the sum of the annual GHG emissions from the following end uses** from their compliance GHGI, for one or more compliance intervals."

*Accounts for uses that are challenging to upgrade now, allows more time for planning, and reduces equity impacts on small businesses (e.g., restaurants).*

# End use deductions included in BEPS

*Annual GHG emissions from[1]:*

1. Fossil fuel **cooking equipment**
2. Fossil fuel high intensity **process equipment** used in hospitals and laboratories
3. Fossil fuel high intensity **laundry equipment** used in hotels and healthcare
4. Fossil fuel equipment located within an **individually owned residential unit** within a multifamily condominium building
5. Fossil fuel generators used exclusively for **emergency back-up power**
6. Fossil-fuel equipment used for back-up **emergency heat** in hospitals and laboratories
7. **District energy steam**, hot water and/or chilled water provided by a private district energy provider
8. **Electric vehicle charging** equipment
9. Electric loads related to broadcast antennas, on-site cell phone towers or other **communications equipment** that is unrelated to the primary purpose of the building

[1]SMC 22.925.120

# Emissions from private district energy provided steam, hot water and/or chilled water

## Eligible Deductions

Any covered building with a contract in place before June 1, 2024 for district thermal energy with a private district energy provider may deduct emissions from steam, hot water and/or chilled water from compliance GHGI.

## Allowed Compliance Periods

| 2027-2030[1] | 2031-2035 | 2036-2040 | 2041-2045 | 2045-2050 |
|---|---|---|---|---|
| yes | yes | no | no | no |

[1]Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

## Proposed method(s) for documenting, metering, or estimating deduction

- All buildings must demonstrate:
  - Current district energy use
  - Evidence that the contract was established prior to June 1, 2024

# Emissions from private district energy provided steam, hot water and/or chilled water

**Proposed method(s) for documenting, metering, or estimating deduction discussed with technical working group members**

**A. To take the deduction, all buildings must submit:**

1. Energy meter data for the required BEPS reporting interval from a private district energy meter is tracked in ENERGY STAR Portfolio Manager.
2. Evidence in ENERGY STAR Portfolio Manager of current automated upload from the private district energy provider via a "Data Exchange" property share OR a copy of a bill for the required BEPS reporting interval if the data is being manually entered.

**B. In addition, one of the following must be provided to confirm the contract was established prior to June 1, 2024:**

1. A copy of a bill dated prior to June 1, 2024, showing service was provided at the building's address.
2. An affidavit from the private district energy provider stating service was provided at the building's address prior to June 1, 2024.

# Questions?

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# Compliance with Private Building Portfolios

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# Complying with multiple buildings

(SMC 22.925.100) "Building owners with a **building portfolio, district campus, or connected buildings** may use an **aggregate standard GHGIT** for the covered buildings within the building portfolio, district campus, or connected buildings using the calculations in Section 22.925.080."

*Enables owners to focus on buildings needing work or upgrades within their portfolio.*

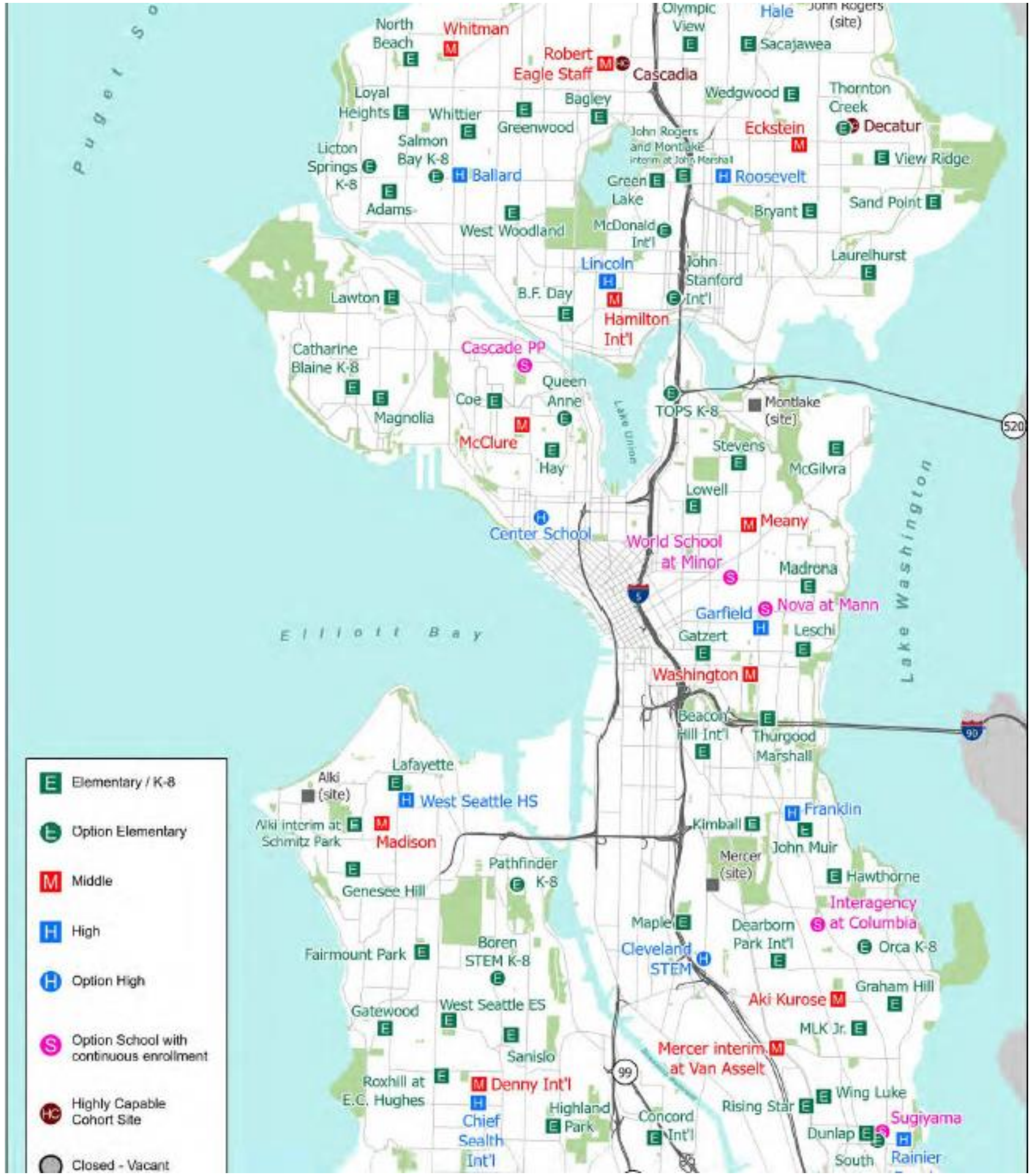
# What's a portfolio?

Per BEPS (SMC 22.925.020) **"Building portfolio"** means two or more covered buildings on one or more lots, all owned by the same public, private, or nonprofit entity. Building portfolios may include district campuses and/or connected buildings. For the purposes of this definition, a building management company does not constitute an owner.

*The buildings comprising a Building Portfolio generally function independently of each other and have separate meters and no district systems. They are distinct and usually dispersed geographically, but under same ownership.*

**Example:**

Seattle Public Schools would be eligible to comply as a building portfolio

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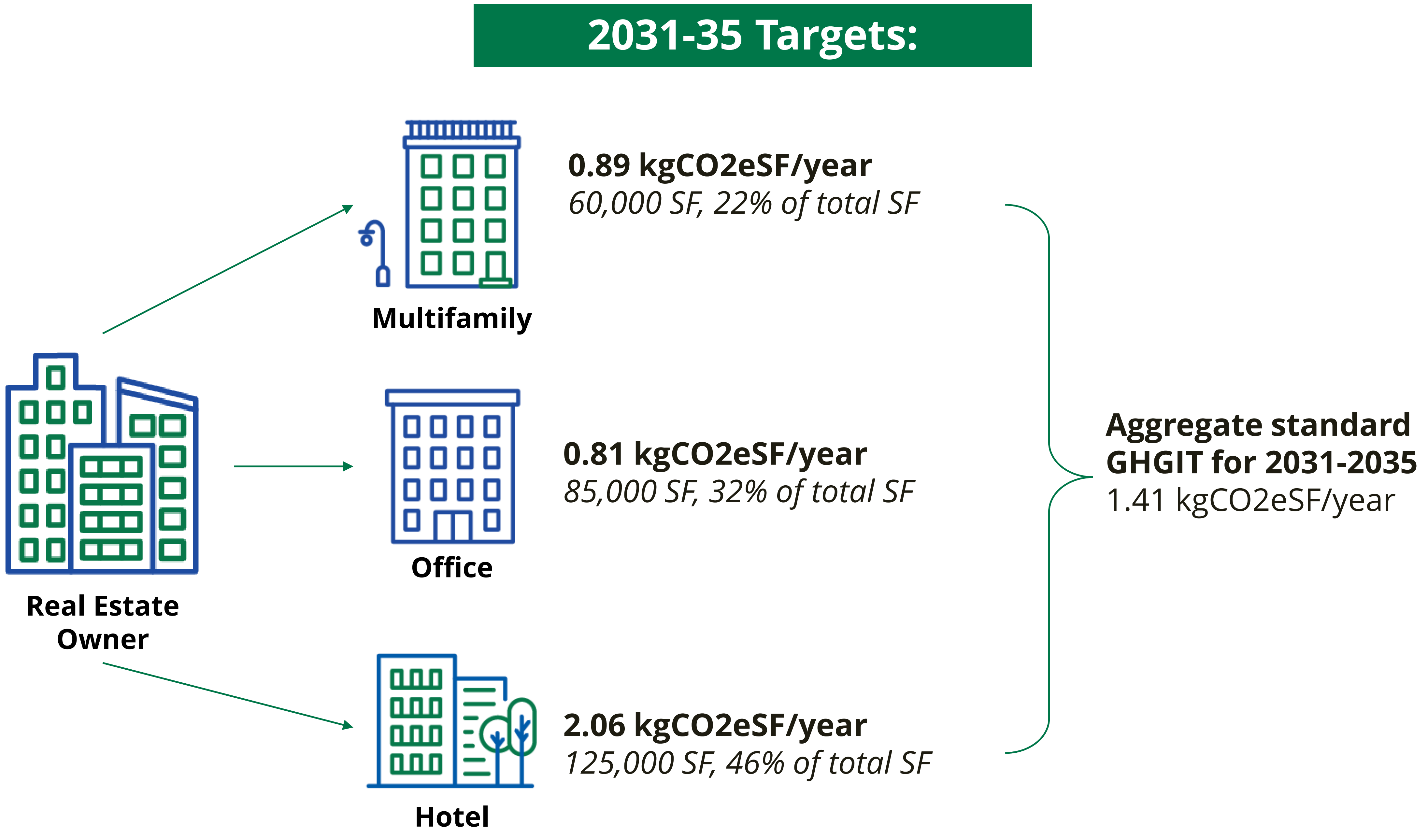
# Report using the Aggregate Standard GHGIT

**"Aggregate standard GHGIT"** means that these buildings can set and meet their GHGIT, based on a pro-rated mix of spaces for all their buildings' square footage combined, in lieu of building by building compliance.



# Demonstrating ownership of building portfolios

**How should building owners demonstrate ownership of private sector portfolios?**

Per BEPS (SMC 22.925.020) "**building owner**" means **an individual or entity possessing a fee interest in a covered building**.

- However, private sector buildings are often registered as LLCs as part of the public record.
- For example, 123 Orca St. LLC and 456 Salmon Way LLC may both be owned by Puget Sound Properties.

# What we heard from technical working group members:

1. All buildings in the proposed portfolio have the same Owner as listed in the records of the King County Department of Assessments.
2. Owners provide copy of deed showing LLC is part of parent company or the title transfer of the LLC to the parent company.
3. Corporate secretary for owner provides a signed certificate affirming that they are the majority owner of a property.

*City will also require "majority owner" to affirm that all LLCs are informed and consent to be in the Building Portfolio for BEPS compliance.*

# Questions?

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# Zoom Poll

# Decarbonization Plans

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# Custom Decarbonization Compliance Plans

*Enables nine additional years from 2041 to meet net-zero or low emissions for largest commercial buildings.*

**Customizable and flexible for individual buildings:**

- Building owners with extenuating circumstances
- Meeting the compliance schedule or meeting the GHGITs is a significant hardship
- Requires demonstration of eligibility, application to use, and an energy & emissions audit.

**Two plan options**

- Net-Zero by 2050
- Low Emissions by 2050

# Eligibility criteria address concerns about cost of compliance

## NET-ZERO BY 2050 DECARBONIZATION COMPLIANCE PLAN

**Per BEPS (SMC 22.925.100), extenuating circumstances for which an owner can use a decarbonization compliance plan include:**

- Concurrent substantial alteration
- Concurrent seismic upgrades
- Significant electrical infrastructure upgrades
- Replacement of equipment prior to end-of-life (and permitted by 1/13/24 or earlier)
- Non-interruptible operations in laboratory or healthcare
- Access to equipment prohibited by lease in place by 1/13/24 or earlier
- No practicable low and zero GHG emissions alternatives

# Eligibility criteria address concerns about cost of compliance

| LOW EMISSIONS BY DECARBONIZATION COMPLIANCE PLAN |
| --- |

**Per BEPS (SMC 22.925.100), extenuating circumstances for which an owner can use a decarbonization compliance plan include:**

- Historic landmark building
- Structural or electrical capacity upgrade barrier
- Business financial analysis can demonstrate meeting net-zero would create financial distress (per the ordinance definition)
- No practicable low and zero GHG emissions alternatives
- Net-zero infeasible in low income multifamily

# Decarbonization plan requirements from BEPS ordinance

**Per BEPS (SMC 22.925.100), all plans must include:**

- Building energy and greenhouse gas **emissions audit**
- Analysis of energy efficiency greenhouse gas **emissions reduction actions**
- **Incremental and final GHGITs and actions** at each compliance interval
- Any applicable content specified by decarbonization plan **provisions in the Seattle Energy Code**
- **Cost analysis** for achieving the incremental and final GHGITs for each compliance interval covered by the plan, including:
  - Incremental cost of any equipment or other upgrades needed to meet the GHGIT above standard asset replacement costs or business-as-usual conditions
  - The analysis must include the social cost of carbon, utility cost savings, available grants, incentives, tax deductions or other financial incentives

# Decarbonization plan details to be considered in Rulemaking

- Application process to use plan
- City review of plan
- Owner reporting on plan milestones
- Plan update process/timing (e.g., if building use or ownership changes)

# Questions on Decarbonization Plans?

# Next Steps

- We will share a meeting summary to ensure notes are accurate
- Please complete this short survey to give your feedback
- Questions or comments? Email cleanbuildings@seattle.gov

**THANK YOU!**


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# Summary Slides of Breakout Group Discussions

*See summary notes for further details*

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# Group A: Defining ”Vacancy” in BEPS

**Based on your experience, what else should OSE know when we are clarifying what is meant by “vacancy” in the Rule?**

- Some property owners on 3rd Avenue in some scenarios provide heavily discounted or free rent: ex. Artists and outreach service providers.
- Tenants may be given access to more space than they’re paying to rent until someone else takes the other space. Downtown is about 30% vacant and competing with subleased space.
  - JLL, Kidder Mathews, or CBRE reports. Depends on how market is defined.
- 17% is too low. Might be a difference in paid space vs vacant space.
- Paid space might not be the right term - space with rental income is different. Some tenants may pay operational costs but not rent.
- Collecting operational costs is not rent. If people aren’t even paying that, then we’re subsidizing them to be there.
- We’re losing money to have tenants in spaces that aren’t even covering operating costs.
- Rent is collected on common spaces and is included in the load factor for buildings.
- BOMA publishes a standard method for measuring floor area which includes leased space.

# Group A: What vacancy/leasing trends you are seeing?

- When leases come up, most people are downgrading/terminating. More tours happening now but still losing more people than we're gaining. Why? WFH, safety downtown, violence/theft, people feel unsafe working alone and can't afford to staff two. Also agree with 30% or more.
- Not expecting a lot of change in the next year or two. Class A office buildings, biotech, industrial does better than others.
- Most of my portfolio is Class B or historic.
- Given lower vacancy rates, it doesn't allow for the same kind of cash flow as in the past. Owners are delaying projects or can't do projects. Need the limited capital for tenant improvements. Haven't had a tour on two floors in two and a half years.
- Interest rates are too high. A lot of owners are trying to just keep ownership. Lends are less flexible now for extending credit. Without capital, can't do anything.
- The article in Seattle Times includes details about the capital challenges.
- Leasing velocity is really low and tenant sizes are small. Feels very competitive. Small tenants want more amenities, don't want to build them out. Contractor rates are not coming down.
- Wondering if folks are expecting this to stay long term?
  - Mixed responses

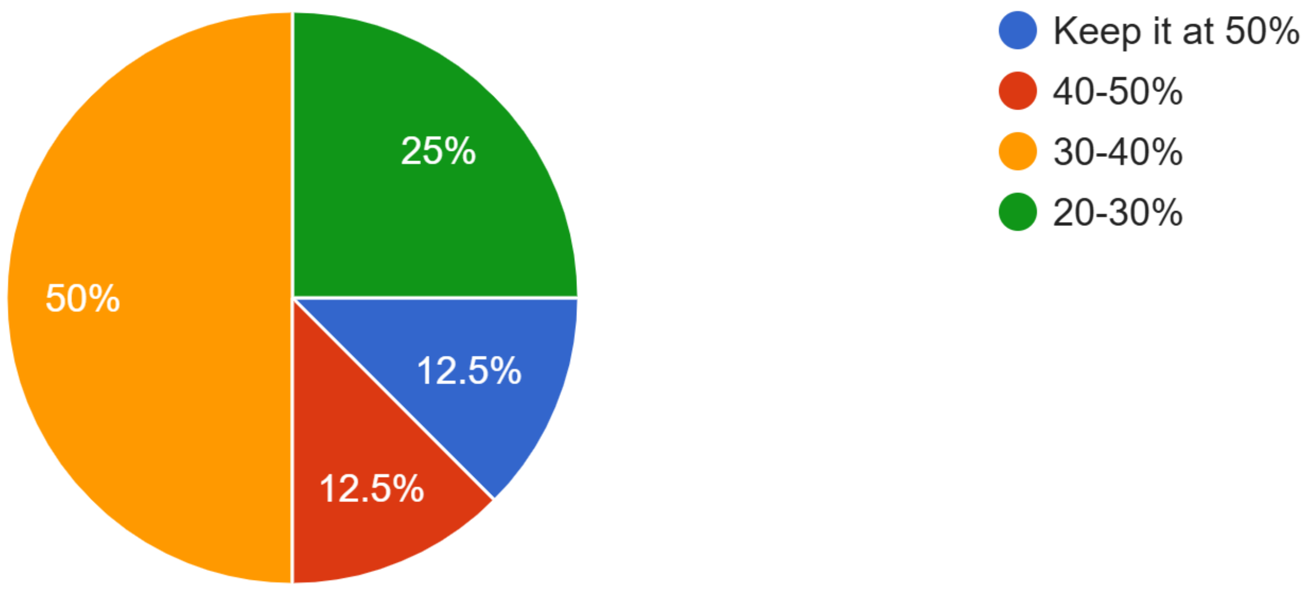
# Group A: What percent (%) vacancy for offices/CRE to qualify for an extension?

**Why did you select the range you chose?**

- 30-40% is where you can keep the property.
- Agreed. That's where you cover expenses and have some operating revenue. Some of the costs can be passed to tenants, but with few tenants the costs are too burdensome and ends up dipping into profits.
- Put it higher, just judging by energy star and wanting to learn from others.
- Put it a little lower because operating expenses started to get squeezed. In the last cycle, at 20% vacancy, there was stress.
- If you purchased the building recently, it's lower, and if not higher.
- Ask property owners and managers what kinds of expenses are in their future. Some buildings are facing things like seismic retrofits. Getting a picture of these upcoming capital stresses, from a big picture perspective, would be helpful.
- Older buildings are "capital hogs". Lots of different legislative mandates.

What vacancy rate should be the threshold to qualify for an extension?

8 responses



# Group A: Demonstrating Vacancy

**What documentation or information do you have that would show high rental vacancy in your building for an extension?**

- What % of colleagues use CoStar? It's expensive for smaller operation.
  - Note: Maybe an equity issue for smaller buildings/portfolios?
- CoStar is easy and has all of the data. Photos proves no one is in it but not that it's rented.
- Rent rolls are the easiest. You already have to share it with the assessors office.
- Need to ensure confidentiality if rent rolls are shared.
- What about the discussion on the variance in square footage?

# Group B: Defining ”Vacancy” in BEPS

**Based on your experience, what else should OSE know when we are clarifying what is meant by “vacancy” in the Rule?**

- What if the tenant is on default and not able to pay rent?
- Direct vacancy - in landlord control and not leased
- Shadow vacancy - short-term and empty and will be expired
- Distinguish commercial from MF - More acute in commercial
- Since this is a proxy for commercial performance, it can be leased but low rent - some super deals.
- Sub-lease market and how it plays - vacant space that is paying rent, but short -lease terms remaining. Generally sub-tenants have left and trying to cut a deal to get someone in to save cost.  Very exception is to get long-term lease.  This can cause anticipated lack of performance.  No easy way to capture, but worth looking into that.
- There might be situation tenants walk out and leave things behind - so be flexible with first bullet.
- Consider other regulation and fees. Hard to not consider this separate
- MF - need to be two different measures for MF and office.  MF is shorter lease - buy occupancy by lowering rate in MF

# Group B: What vacancy/leasing trends you are seeing?

- Different situation than tune up.  Hearing numbers as high as 35%
  - Get the brokerage community to give us some feedback
- Talk to owners and developers downtown:  What is the reason that they feel the market is imbalanced?  (not landlord or tenant friendly) ? identify where people think that equilibrium is
- Question: Is there a risk to set it too low?  This might be a topic of conversation - people of the finance side
- Level of vacancy impact on financial constraints is very variable on the level of loan? Long-term market is going to shift and it is not clear what is going to look in the future.  Hard to pick a number!
- Maybe it is not a number but factors that contribute to financial health……
  - Maybe there are some factors and ranges.
- Long-term financing / investment strategies are part of the financial thinking -  BEPS is a piece of the puzzle, we want to be very careful about the hardship - We want to make sure we are not making it overly complex but still move forward. Let's stay grounded in the "hardship"
- Capture "hardship" , but easy to administer:  Can someone come and share books and have a specialized assessment? Yes - an option to do a low emissions decarb plan -
- Energy star for certification uses a time weighted occupancy over a three-year period.  You still have to have a threshold, but can be better than a single pointed.
- Smaller spaces are leasing than larger spaces - if you break the space, then you have better chance to renting out. Tenants are asking for future capital plans that impacts their lease renewal

# Group B: What percent (%) vacancy for offices/CRE to qualify for an extension?

## Why did you select the range you chose?

- N/A → Group B did not have time to complete the survey

# Group B: Demonstrating Vacancy

**What documentation or information do you have that would show high rental vacancy in your building for an extension?**

- Rent roll - audited (include total building)
- Time lapse - trend
- Living building pilot - has some occupancy evident that the city likely have
- For tuneup - we use photo or lease verification