

## Dynamism and Real Property Taxes, Who Knew?

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Andrew T. Hayashi, *Dynamic Property Taxes and Racial Gentrification* (Dec. 23, 2020), available at [SSRN](#)

In his article, *Dynamic Property Taxes and Racial Gentrification*, Professor Andrew Hayashi makes the compelling case that dynamic real property tax regimes, under which gentrifying neighborhoods are taxed at a lower rate than non-gentrifying neighborhoods, encourage racial gentrification and raise challenging, previously ignored, distributional questions. (P. 20.) To put it more plainly, dynamic property taxes are real property taxes that depend upon a property's history of values so that two properties worth exactly the same amount today, could be taxed at different rates if the properties' values evolved in different ways over time.

As an initial matter, Hayashi's work makes a valuable contribution to understanding just what "gentrification" is and how it affects individuals and communities. Many years ago, I attended a meeting with a mixed group of law professors and planning professors. It was there, for the first time, that I became aware that in some corners of the academy, "gentrification" is a bad word and always a bad word.

It is code for displacement of poor Black residents from their troubled inner city neighborhoods when these neighborhoods become safe again for middle-income White residents to return, bringing with them investment, renewal, safety and increased property values. The Black residents who had "always been there" when the neighborhoods were not places of investment or of safety would be slowly displaced by all the wonderful benefits that attended the return of middle-class White residents because they could not afford to pay the property taxes on their newly appreciated homes.

Before learning about gentrification from my urban planning colleagues' perspectives, I used the term gentrification more innocuously to describe poor, sometimes dangerous neighborhoods, becoming middle and higher income neighborhoods. I recall asking my urban planner colleagues, "so for your discipline, is gentrification always bad?" Their answer was, yes. And in that moment, so much changed for me.

Today, I think it is common to understand gentrification pejoratively, with discriminatory undertones and overtones. The lines between gentrification's victims and assailants can be more than a bit blurry.

More and more scholars, across disciplines, are writing and thinking about these intersections. For example, are gay and lesbian couples hoping for urban refuge from suburban discrimination both drivers and beneficiaries of gentrification?<sup>1</sup>

It is at this difficult intersection of beneficiary and victim, that Professor Hayashi's scholarship makes a quite interesting contribution to the complicated discussion around gentrification. Hayashi argues that by establishing the real property tax rate using a combination of the recent history of market values and current market values, our taxing system creates a "dynamic aspect in property taxes" whose racially disparate impacts result in Black homeowners paying higher property taxes than White homeowners.

Hayashi's tax and economic expertise is on full display as he explains two of the principle features of dynamic property taxes. First, why does the distinction between using assessment caps as opposed to phase-ins matter when taxing property?

Hayashi illustrates that the assessment cap does not benefit property owners whose properties appreciate at below the set cap rate while, in contrast, all appreciating properties benefit from phase-ins because all market value increases that occur between assessment years gets added incrementally to the assessed value. (P. 5.)

Thus, "caps tend to benefit the fastest appreciating neighborhoods for a relatively long time. In contrast, phase-ins benefit all appreciating neighborhoods, but the benefits are shorter-lived." (P. 5.)

Second, Professor Hayashi illustrates how the treatment of property upon transfer is an important aspect of the design of dynamic property taxes. Are assessed values reset to their fair market value upon transfer?

This approach discourages property transfers, as Professor Hayashi explains, because the current owner has a more favorable effective tax rate than the buyer, a phenomenon Hayashi describes as "lock-in." Or do assessed values remain unaffected by real estate transfers so that the buyer acquires the property at the seller's assessed value? Under this approach, the buyer benefits from owing the property with the seller's lower assessment ratio.

As neighborhoods' racial demographics change, so too do home values and the trajectory of these values over time. Gentrifying neighborhoods under a dynamic property tax system benefit from lower taxes as caps and phase-ins reduce the effective tax rate for these properties. The consequence is that the effective tax ratio for gentrifying neighborhoods experiencing rapid property appreciation is lower than the effective tax ratio compared to properties with stable values, modest growth rates, or declining values.

Professor Hayashi drives home the impact of dynamic property taxes for his reader when he notes that dynamic property taxes can impact racial preferences on how wealth is distributed as "homes in neighborhoods that are rapidly *becoming* white may pay less in property taxes."

As we grapple with difficult problems of racial disparities, gentrification, and demographic change going forward, it will be critically important to understand as many of the alternative explanations for these challenges as possible if we hope to craft a solution. Professor Hayashi makes a compelling case that dynamic property taxes are part of an alternative explanation. His article exposes the reader to a different view of a perennial problem with the hope that with a new perspective, perhaps new solutions can be imagined.

1. Mia Goodnature, Daniel Henderson, & Amanda Ross, [Do Gay Male and Lesbian Couples Induce Gentrification?](#), **The American Economic Association** (Dec. 23, 2018); Peter Moskowitz, [When It Comes to Gentrification, LGBTQ People Are Both Victim and Perpetrator](#), **Vice** (March 16, 2017).

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