Neighborhood Names: Why Should the Law Care?

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Names matter. We all realize that they matter for our lives, but we do not intuitively assume that names matter for the law just as well. And yet, in many legal fields, they clearly do. In international law, the question what country gets to be called China and which one is Macedonia has carried major repercussions.[1] In food law, extensive regulation determines rights to use names or marks of origin indicating the place, region, or country whence a foodstuff hails.[2] Trademark law's whole function is to allocate names to businesses: to decide which market entity can employ a specific name when selling goods or

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1. Starting in the late 1940s, following a revolution and civil war, two countries claimed the name China. One was the Republic of China, located on the island of Taiwan, to which the Chinese Nationalist government fled following its defeat in the civil war. The other was the People's Republic of China, located on the mainland and controlled by the victorious Communist Party. The question which of the two countries was entitled to the name China was not solely political, for at stake was also the question who should hold China's seat in the United Nations. This issue was of particular importance since China was assigned a permanent seat, and thus a veto right, in the U.N.'s Security Council. Taiwan was recognized as China, and thus held that seat until 1971, when it lost the title of China to the People's Republic. *E.g.*, Christopher J. Carolan, Note, *The "Republic of Taiwan": A Legal-Historical Justification for A Taiwanese Declaration of Independence*, 75 N.Y.U. L. REV. 429, 436–38 (2000). After the dissolution of Yugoslavia in the early 1990s, a dispute erupted between the Former Yugoslav Republic of Macedonia and neighboring Greece over the former's use, upon its independence, of the name Macedonia. Greece has argued that the name implies territorial aspirations because a northern region in Greece bears the same name. On the multi-faceted litigation that ensued, see Halil Rahman Basaran, *Implications of the* Interim Accord *Ruling of the International Court of Justice*, 47 INT'L LAW. 123, 124 (2013). The two countries approved a settlement earlier this year, in accordance with which the former Yugoslav republic will be named North Macedonia. Chico Harlan, *Greece Approves Macedonia Name Change, Ending 28-Year Row*, WASH. POST (Jan. 25, 2019), https://www.washingtonpost.com/world/europe/greece-approves-macedonia-name-change-ending-28-year-row/2019/01/25/9eb080c2-1fe5-11e9-a759-2b8541bbbe20_story.html [https://perma.cc/H6ML-ZAW4].

2. For an overview of the statutory and regulatory authorities governing origin requirements for food products in the United States see, for example, Wendy A. Johnecheck, *An Examination of Whether U.S. Country of Origin Labeling Legislation Plays a Role in Protecting Consumers from Contaminated Food*, 21 STAN. L. & POL'Y REV. 191, 192–206 (2010).

services.[3] Local government law, for its part, also has always dealt with names. After all, any local government unit, such as a city, must have a name.[4] Still, the processes for picking a municipality's name are straightforward enough that they raise little controversy[5]—with the minor, mostly historic, exception of cases where a city disincorporated and then reincorporated with a new name as a ploy to evade financial liabilities.[6]

Unlike country names in international law, origin names in food law, or business names in trademark law, municipality names in local government law are not a matter the law is heavily invested in: they are just there. In their eye-opening article, however, Nestor Davidson and David Fagundes illustrate that in fact there are names that matter quite a bit in local government law. Surprisingly, these are not the names of cities—or of any other recognized local government entity. Rather, the names that matter in local government law are the names of neighborhoods: subareas within cities which otherwise enjoy no recognized legal standing.

Law and Neighborhood Names[7] reaches this important conclusion through a three step move. First, it draws legal commentators' attention to real world disputes over the naming of neighborhoods and to the work of social scientists analyzing these naming battles. Second, Davidson and Fagundes identify the heretofore ignored role the law—specifically, local government law—can, and does, play in these disputes. They unearth and categorize the disparate legal regimes U.S. cities currently institute for bestowing names on subareas contained within them. Third, having explored the real world and doctrinal dynamics of neighborhood naming battles, the authors elaborate on the legal theory that should animate our approach to these conflicts. They highlight the importance of neighborhood naming conflicts for both property theorists—for whom these disputes should illustrate the centrality and variety of cultural properties—and for local

3. *See Trademark*, BLACK'S LAW DICTIONARY 1500 (7th ed. 1999) (defining trademark as "a word, phrase, logo, or other graphic symbol used by a manufacturer or seller to distinguish its product or products from those of others").

4. 2 MCQUILLIN MUN. CORP. § 5:1 (3d ed. 1996) (explaining that a municipality must have a name).

5. The name can be expressed explicitly in the grant or statute, but it can also be acquired implicitly. *Id.* A variation in a municipal grant or contract from the precise name of the municipal corporation does not invalidate the grant or obligation. *Id.* at § 5:2.

6. In the 1870s, Duluth, Minnesota, Memphis, Tennessee, and Mobile, Alabama, all dissolved and were reorganized under new names—the "District of Duluth," the "Taxing District for Shelby County," and the "Port of Mobile," respectively—in an attempt repudiate their debts. The attempts failed legally. Nadav Shoked, *Debt Limits' End*, 102 IOWA L. REV. 1239, 1298 n.128 (2017).

7. Nestor M. Davidson & David Fagundes, *Law and Neighborhood Names*, 72 VAND. L. REV. 757 (2019)

government law scholars—who should observe these struggles to better appreciate the intricate interplay between formality and informality that characterizes our local governance system.

The overall goal of this three-step move is to persuade local government law scholars that neighborhood names carry *legal* relevance. Scholars never questioned the names' *real world* relevance for residents.[8] The specific events depicted in the Article's first part were probably unknown to readers, but most readers would have hardly found them surprising. Everyone knows that neighborhoods have names. Many readers live in an area which, when asked, they identify by (what they deem to be) its neighborhood name.[9] Similarly, few are unaware of developers' and realtors' creativity in the field: anyone who has ever gone on a house or apartment hunt has probably been exposed to professionals' resourcefulness in assigning neighborhood names and to the gyrations they can resort to when delineating those names' reach.[10] We all experience neighborhood names.[11]

That fact, however, does not necessarily render those names into legal objects or into appropriate subjects for legal research. Indeed, the flexibility of neighborhood names—that is, our own, and our realtors', ability to contest those names—weighs against the names' legal stature. Neighborhood names, one might feel, are like nicknames some give to inanimate objects. Certain individuals might use a name when describing a given subarea; others might not; still others might use a different name for that same subarea. Those using the neighborhood name often employ it strategically, and that is perhaps why others refrain from using the name, and why everyone takes the name with a grain of salt. There is something not totally serious—not wholly real—

8. The focus on the neighborhood as a relevant unit for analysis of social interactions within the city dates to the original emergence of modern urban studies and sociology in the first decades of the twentieth century. The "Chicago School," credited with the founding of the field of urban sociology, propagated the notion of a "human ecology" whose constitutive element was the neighborhood. The neighborhood was a natural community giving individuals a place and role in city life's aggregate organization. Ernest W. Burgess, *The Growth of the City: An Introduction to a Research Project*, *in* THE CITY 47, 56 (Robert E. Park et al. eds. 1925). Perhaps most famously, Ernest Burgess and Robert Park conceptualized the city as an ecosystem of communities in which the social structures of each such community and the surrounding environment shaped human behavior. Robert Park & Ernest Burgess, THE CITY, 63–79 (1925).

9. People talk about "their neighborhood," but the location and meaning they attach to it are unlikely to be exact. For example, a study of Chicagoans revealed considerable ambiguity in residents' perceptions of neighborhood boundaries. ALBERT HUNTER, SYMBOLIC COMMUNITIES: THE PERSISTENCE AND CHANGE OF CHICAGO'S LOCAL COMMUNITIES 7 (1974).

10. Some sociologists thus argue that neighborhoods are merely artificial creations of surveyors, developers, and realtors. *E.g.*, GERALD D. SUTTLES, THE SOCIAL CONSTRUCTION OF COMMUNITIES 52 (1972).

11. Jane Jacobs, the famed activist and writer, offered perhaps the most influential modern discussion of these experiences. Her contention was that a city is only as good as its neighborhoods: the places where people go about their daily activities. JANE JACOBS, THE DEATH AND LIFE OF GREAT AMERICAN CITIES 112–40 (1961).

about these names.[12] They are not quite there, unlike countries' names, foods' places of origin, or businesses' marks. If it is not clear that we take neighborhood names seriously as individuals, why should we take them seriously as lawyers or legal scholars?

The Article's most important contribution is in its efforts to dispel this intuitive skepticism, which in all likelihood accounts for legal scholars' preceding neglect of neighborhood names. Davidson and Fagundes tackle this challenge with great success. By showcasing, in the second part of their argument, the role the law already plays in settling disputes over the assignment of neighborhood names, they shatter the notion that these names are not a legal matter. The law is involved in setting neighborhood names, so it cannot be viewed as unconcerned with them. The authors' ensuing theoretical argument must therefore also be admitted: if the law polices neighborhood naming, as they show it does, legal actors and thinkers must approach neighborhood names through a normative prism. Otherwise, the legal regulation of neighborhood names would never be principled.

These arguments help quell preexisting doubts respecting the claim that neighborhood names should, and do, matter for local government law. Yet such doubts probably emanated not only from the—mistaken, as Davidson and Fagundes prove—assumption that the law plays no role in regulating neighborhood names, but also from the distinct assumption that neighborhood names play no role in law. The suspicion could have been, in other words, that the neighborhood name, once assigned (even if assigned in a legally sanctioned manner), carries little concrete weight. Hence, outside of those instances where deeply-ingrained cultural meaning is at stake, as in gentrification clashes,[13] assigning a new legal name to a neighborhood is of little meaningful impact. Here I would like to reconsider those doubts—especially as I too entertained them before reading *Law and Neighborhood Names*.

Irrespective of the original merits or pervasiveness of those doubts, their treatment is of value. By addressing them I heed Davidson and Fagundes's call to pay more attention to the role neighborhood names play in law. I will focus on the way in which a neighborhood name, once instituted, carries major objective ramifications that the law cannot ignore. While, like all future writers

12. Not just the idea of a neighborhood name, but the idea of the neighborhood itself, is perhaps too fluid to be useful for analysis purposes. The National Commission on Neighborhoods, in its final report submitted to the President and Congress in 1979, admitted that no level of government had an accepted definition of a neighborhood. It then concluded, "in the last analysis, each neighborhood is what the inhabitants think it is." NATIONAL COMMISSION ON NEIGHBORHOODS, PEOPLE, BUILDING NEIGHBORHOODS: FINAL REPORT TO THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES 7 (1979).

13. Davidson & Fagundes, *supra* note 7, at 757–58 (explaining that disputes over names are particularly salient when accompanying the gentrification of the relevant neighborhood).

in the field, I draw heavily on the work of *Law and Neighborhood Names*, the emphasis of this Essay's argument is at times slightly different from the Article's, in two ways.

First, the concern animating Davidson and Fagundes's effort is mostly with the subjective value of neighborhood names: the value that renders them into cultural assets. I, on the other hand, stress more the objective value of those names, which renders them into market assets. This prioritization of the objective value of neighborhood names supplements—rather than supplants—the concern with their subjective value. I certainly do not aim to deny the importance of names as cultural assets, let alone weaken the case for such cultural assets' legal protection. Indeed, I need not even engage the debate over the relative import that should be assigned to cultural values as opposed to market ones.[14] For even those who deem the subjective value of a name more central than any objective value it might hold, should realize that any such objective value only adds to the importance of the relevant asset. My emphasis on this objective value thus reinforces the claim that the law cannot content itself with randomly assigning neighborhood names, since it further stresses the point that these are things of real value.

Second, I focus on the law post-naming rather than pre-, or during, naming. Instead of exploring the legal procedures leading to the neighborhood naming, I tentatively sketch some of the effects the neighborhood naming then generates. Because Davidson and Fagundes show that the law institutes neighborhood names, we must think what happens next: where precisely the name, once instituted, might matter in law. Specifically, I suggest the assignment of a name to a neighborhood later affects dynamics of political accountability on the city level, with major consequences for legal decisions respecting zoning and development.

The Essay proceeds to establish these arguments as follows. Part I explains why the legal assignment of the neighborhood name redistributes economic value. Part II shows that the designation also redistributes political power. These two claims serve, I believe, to further bolster Davidson and Fagundes's innovative argument whereby local government law must care about neighborhood names.

Part I. Neighborhood Naming as the Allocation of Economic Value

For neighborhood names to matter to law they must have some value that the law deems worthy of protecting, or at least of noting. Thus, a vital contribution Davidson and Fagundes make is in

14. For an example of work on this question, see ELIZABETH ANDERSON, VALUE IN ETHICS AND ECONOMICS (1993).

identifying neighborhood names' value. They explain why such names should be viewed as assets. For the authors, the core value of a neighborhood name is cultural. Without downplaying that value, here I will argue for the importance of recognizing the name's economic value. Davidson and Fagundes by no means ignore this value—they explicitly acknowledge it throughout—but it plays a secondary role in their argument.[15] In this Part I try to explain why the neighborhood name's economic value can, even standing alone, justify the authors' call that the law consider neighborhood names in a more sensitive manner.

Law and Neighborhood Names introduces to legal scholarship insights from the body of work within geography scholarship that establishes the significance of place names: the field of toponymy. Toponymers explain that names communicate the nature of a place, and thus signal the broader social context enveloping the place.[16] Place names inscribe language, culture, and history in the built landscape.[17] Davidson and Fagundes further single out the work of critical geographers, who stress how place names reflect the power dynamics between distinct racial and economic groups, and how these names often embody attempts at exclusion.[18] Names allow communities to define their turf, and then protect it from other, "different," communities.

Building on this non-legal literature, *Law and Neighborhood Names* concludes that what renders neighborhood names worthy of legal status is that these names are things that are constitutive of a community's identity.[19] Neighborhood names' value is "social" and as property interests they are "collective" (i.e., belong to a community) rather than individual.[20] This analysis nicely accounts for the ferocity of the battles over neighborhood naming in New York's South Harlem, Miami's Little Haiti, and Los Angeles's South Central. The Article surveys and highlights for outsiders the high stakes actual residents felt were involved in each of these battles due precisely to the social, collective, value of the contested names.

But, as Davidson and Fagundes readily admit, that is not necessarily the value over which name designators wrangle in all, or even most, disputes over neighborhood names.[21] The neighborhood naming disputes experienced first-hand by the mostly upper middle-class law review reader, author, or editor, involve very different stakes.

15. *E.g.*, Davidson & Fagundes, *supra* note 7, at 762–63.
16. *Id.* at 761–62.
17. *Id.* at 776.
18. *Id.* at 777.
19. *Id.* at 762.
20. *Id.* at 764.
21. *Id.* at 764.

When New Yorkers shrug with dismissal or annoyance at descriptions of properties across from City Hall Park as forming part of Tribeca;[22] when Chicagoans are struck by the western crawl into Logan Square of Bucktown—now crossing the clear demarcation line a main thoroughfare provides;[23] or when Bostonians wonder how deep into Roxbury the South End reaches; they realize that at stake is no communal value.[24]

These moves are not about identity or even about social battles. The power relations implicated in all three are far from clear-cut.[25] These moves are about money. In New York, Tribeca's average sale price at the relevant time was $6.2 million. In City Hall Park it was under $860,000.[26] The incentive to place your property in Tribeca, rather than City Hall Park (or the other more geographically sensible option, the Financial District, where average sale price was $3.8 million)[27] is obvious. In Chicago, the moniker "West Bucktown" was specifically introduced to entice buyers to move west of Western Avenue by putting a familiar name on that area.[28] In Boston, one writer poses the simple, rhetorical, question: "Buyers, ask yourselves: Would you pay $549,000 for a one-bedroom condo on Northampton Street in Roxbury? Would you be more apt to agree with the price tag if it were in the South End?"[29]

Although it is easy to show the extent to which property values differ across different census tracts within the same city,[30] no conclusive study quantifies the premium specifically accompanying the attachment to the property of a desirable neighborhood name such as

22. Miriam Hall, *Blurring the Boundaries*, THE REAL DEAL, Oct. 2017, https://therealdeal.com/issues_articles/blurring-the-boundaries/ [https://perma.cc/PJD6-MD7S].

23. Alexia Elejalde-Ruiz, *Neighborhood Identity Crisis*, CHI. TRIB.(July 21, 2009), https://www.chicagotribune.com/news/ct-xpm-2009-07-21-0907210119-story.html [https://perma.cc/HWP3-YCRA].

24. Tom Acitelli, *How Real Estate Search Sites Define the South End's Boundaries*, CURBED BOS. (Sept. 13, 2016), https://boston.curbed.com/2016/9/13/12892844/south-end-boston-boundaries [https://perma.cc/MTK4-KTRP].

25. While Boston's Roxbury and Chicago's Logan Square and Humboldt Park were for decades somewhat more diverse than the neighborhoods bordering them, just like those adjacent neighborhoods, they have been gentrifying for a while now.

26. Hall, *supra* note 22.

27. *Id.*

28. Elejalde-Ruiz, *supra* note 23.

29. Madeline Bilis, *Which Neighborhood Are You Buying In? It Depends*, BOS. MAG., July 20, 2016, https://www.bostonmagazine.com/property/2016/07/20/neighborhood-boundaries-boston/.

30. *E.g.*, BOSTON AREA RESEARCH INITIATIVE, THE MANY DIMENSIONS OF CHANGE IN BOSTON, DAY 3: A NEIGHBORHOOD'S CONTRIBUTION TO PROPERTY ASSESSMENT (Apr. 12, 2018), https://www.northeastern.edu/csshresearch/bostonarearesearchinitiative/2018/04/12/the-many-dimensions-of-change-in-boston-day-3-a-neighborhoods-contribution-to-property-assessment/.

Tribeca, Bucktown, or the South End.[31] Yet, as these examples illustrate, all market participants assume such a premium exists. Perhaps most importantly, all act upon that assumption.

In one case, for instance, developers were only able to sell 20 out of 114 units at a luxury, starchitect-designed condominium building in New York City's East Harlem before hiring a new marketing team that shifted the building's location to North Carnegie Hill. At that point, the building sold out briskly.[32] This is a mere anecdote, but real estate industry publications explicitly instruct that "neighborhood matters" and that it is important to be able to "verify a home's neighborhood . . . [b]ecause neighborhood can often help dictate a home's value."[33] The appraising profession's formal manual concurs.[34] Fannie Mae, the federal government-sponsored entity that securitizes mortgages, insists that "neighborhood characteristics and trends influence the value of one- to four-unit residences."[35] Hence under the underwriting standards it employs to determine which mortgages to purchase, it requires that the appraisal of the mortgaged property include an analysis of neighborhood characteristics—for which purpose the appraiser is ordered, as a first step, to identify the neighborhood.[36]

The neighborhood and its name thus hold a value, a value experienced and realized by the individual properties within the neighborhood. The decision respecting neighborhood naming allocates that value. If a property "moves" from Logan Square to West Bucktown, its value might increase. Accordingly, the decision to characterize the property's neighborhood as West Bucktown is a transfer of funds to the property's owner. At the same time, as the reach of the moniker Bucktown (with or without a directional) expands, the supply of properties carrying that name grows. Thus, some of the demand for properties in Bucktown is now satisfied outside of the "original" Bucktown. Value is thereby transferred from some individual owners

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31. The only relevant study dealt with the premium buyers were willing to pay in order to be in the catchment area of a better neighborhood school. Patrick Bayer et al., *A Unified Framework for Measuring Preferences for Schools and Neighborhoods*, 115 J. POL. ECON. 588 (2007) (finding that "households are willing to pay less than 1 percent more in house prices . . . when the average performance of the local school increases by 5 percent").

32. Hall, *supra* note 22.

33. Joe Ward, *What Neighborhood Is That Property Really In? New Map Settles Debate*, BOS. AGENT MAG. May 23, 2018, https://bostonagentmagazine.com/2018/05/23/neighborhood-property-really-new-map-settles-debate/ [https://perma.cc/4VKX-6SN5].

34. APPRAISAL INSTITUTE, APPRAISING RESIDENTIAL PROPERTIES 39 (1994) ("[I]dentifying neighborhood boundaries is an important step toward selecting relevant market data.").

35. FANNIE MAE, B4-1.3-03: NEIGHBORHOOD SECTION OF THE APPRAISAL REPORT (08/07/2018) https://www.fanniemae.com/content/guide/selling/b4/1.3/03.html?printing=true [https://perma.cc/F3PD-G2P9].

36. *Id.*

(those in the original Bucktown) to others (those in the new Bucktown expansion).

This value transfer might strike many as highly speculative. Yet, at least one dilutionary effect of an expansion of a neighborhood via naming is difficult to write off. As buyers and their intermediaries assess the average price for a property in a neighborhood, the inclusion in the neighborhood of new areas—where properties are cheaper—decreases the neighborhood average property price. It thus interferes with the ability of owners of properties located within the original scope of the neighborhood to maximize asking prices. The situation of owners in the area into which the neighborhood name expands is, naturally, reversed: the average price against which their properties are assessed is now inflated.[37] This effect is credible enough to have recently engendered a new real estate data service specifically aiming to treat the muddying of property values through murky neighborhood name designations.[38]

Any effect on property sale values attained through the manipulation of neighborhood names, as just reviewed, inevitably also registers in rental values. Indeed, in the context of certain tenancies—short-term tenancies—the economic effects of a neighborhood name have, if anything, been amplified over the past few years. They might now be felt even more immediately than the naming's effects on sales. These days, most short-term leasing of units is facilitated through the services of online platforms, most prominently Airbnb. On these platforms, units are offered for rent without a specific address, only with a neighborhood name. The geographical parameters of the consumer's search for a unit within the given city are thus set by neighborhood names alone (which can be used as a search filter), and these names serve as the major indicator for the desirability of a unit's location. The neighborhood name assigned to the specific property thus inevitably has a direct, and significant, effect on the short-term rental unit's pricing.

The upshot of this Part's analysis, is, in sum, that a neighborhood renaming—if successful—produces economic value for some, while at least in some instances, taking value away from others.

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37. Melissa Romero, *How Real Estate Websites Define Fishtown's Boundaries*, CURBED PHILA. (Oct. 31, 2016), https://philly.curbed.com/2016/10/31/13458206/fishtown-neighborhood-boundaries-map [https://perma.cc/GJU6-XNWA] (interviewing a market analyst that explains that "[w]hen different portals have very different neighborhood boundaries, especially when these change over time, different sets of properties are included or excluded from the analysis . . . And this can result in very different averages").

38. The service is NeighborhoodX.com.

Therefore, if the law plays a role in this renaming process, it is implicated in a transfer of economic value.[39]

Davidson and Fagundes show that the law is in fact heavily involved in neighborhood naming: local governments bestow names on neighborhoods. They do so, the authors explain, in three different ways: affirmatively naming a neighborhood, negatively barring a neighborhood naming, or awarding a name covertly by recognizing a neighborhood body. No matter to which of these techniques a given local government resorts, that government ends up assigning at least some legal heft to a neighborhood name, and, thereby, in light of the preceding analysis, distributing economic value.[40] Indeed, this Part's focus on economic impacts illustrates how significant is Davidson and Fagundes's insight with respect to the final, seemingly least expressive, mode of legal neighborhood naming: covert naming. In the example from Chicago discussed above, the name West Bucktown gained market momentum when residents created the West Bucktown Neighborhood Association, which the local alderman, police district, and other local authorities proceeded to use as formal liaison.[41] Even more interestingly, perhaps, a city's covert recognition of an area's neighborhood name through the institution of a Business Improvement District (BID) covering the area and bearing a neighborhood name (without affirmatively awarding the name to the underlying area itself) might similarly portend economic upheavals for residents. One study found that for residential areas "[p]roperty values clearly increase during the process of BID formation, . . . but they fall once the BIDs are actually formed."[42]

A neighborhood name is both a social and collective property, as Davidson and Fagundes persuasively argue, but also, as argued in this Part of the Essay, an economic and individual interest.[43] Consequently, legal decisions respecting naming matter whether or not the specific

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39. The law itself recognizes the economic meaning of its decision to assign a name in at least one context. Once a legal name exists for a neighborhood, tort claims against those who mislead potential buyers respecting the neighborhood's boundaries might become possible. Unknowing buyers—like out of towners—can claim that they paid an excessive price given the neighborhood's "true" name.

40. Fannie Mae specifically requires appraisers to take into account "legally recognized" neighborhood boundaries. Fannie Mae, *supra* note 35. Since Fannie Mae otherwise provides little by way of guidance, these are of much importance.

Rachel Masey and Jim Andersen, *Getting Neighborhood Description Right*, WORKING RE http://www.workingre.com/neighborhood-description/ [https://perma.cc/Z4BM-FL7H].

41. *See* http://www.westbucktown.org [https://perma.cc/KNG7-2VCN].

42. Ingrid Gould Ellen et al., *The Impact of Business Improvement Districts on Property Values: Evidence from New York City* 30 (Brookings-Wharton Papers on Urban Affairs, 2007).

43. Davidson & Fagundes, *supra* note 7, at 810 (explaining that "cultural property generally—and neighborhood names in particular—take as their subject not a sole owner but a collective people").

neighborhood name is charged with social-cultural meaning. *Law and Neighborhood Names* makes a compelling case that stronger protections for neighborhood names should be proffered when those names are imbued with cultural meaning, particularly if associated with the experiences of disadvantaged groups.[44] In those cases, major equity concerns are implicated. But even in the unquestionably less-troubling cases, where social tensions are not ensnared, neighborhood names matter. Since economic values are likely involved, the decisions government makes respecting neighborhood names must be principled. Even if the relevant name does not represent a cultural property, it is a property with economic value in whose redistribution government is engaged.

Part II. Neighborhood Naming as the Allocation of Political Power

The legal decision to bestow a neighborhood name has an economic fallout: it distributes market value. It also generates political reverberations: it distributes decisionmaking powers. Those political effects will be discussed now. Like the economic effects the preceding Part reviewed, these political effects are closely tied to the cultural effects Davidson and Fagundes illuminate. As they so effectively show in their article, naming creates, or maintains, a community. It is a major tool local government law employs to recognize certain, and not other, communities within a city. That legal recognition, in turn, often grants, as we shall see now, enhanced political voice. When making decisions affecting one of its subareas, a city will inevitably consider more closely the concerns of the subarea's residents if they, or a subset thereof, are recognized by the city itself as a community—a result achieved, as noted, through naming.

A major reason for the social importance of the allocation of neighborhood names, *Law and Neighborhood Names* explains, is that often the name allocation is the only tool the law employs to define sub-communities within a city. A comparison between the legal treatment of cities and that of neighborhoods is useful here. The important work in defining local level communities, such as cities, is done through the drawing of their boundaries. Local government law thus has extensive rules governing incorporation (the creation of a new city out of county land),[45] annexation (the addition of new land to an existing city),[46]

44. *Id.* at 803–04; *see* Kristen A. Carpenter, Sonia K. Katyal & Angela R. Riley, *In Defense of Property*, 118 YALE L.J. 1022, 1050–53 (2009) (on which Davidson and Fagundes rely for making this argument).

45. For an overview of incorporation laws, see Richard Briffault, *Our Localism: Part I-The Structure of Local Government Law*, 90 COLUM. L. REV. 1, 73–78 (1990).

46. *Id.* at 77–81.

secession (the withdrawal of lands from an existing city),[47] and dissolution (the abolition of a city and the merger of its land with another city or with the county).[48] These rules are central to local government law. They are often heavily contested, and when a community employs them—creating a new city, trying to expand a city, trying to leave a city, or trying to abolish its city—contentious legal battles are likely to ensue.[49] The reason is obvious. Local government law defines the local political community through the drawing of local boundaries. The boundaries set in accordance with the rules of incorporation, annexation, secession, and dissolution determine what properties, and which owners and inhabitants, count as members of the political community that is the city. And few determinations are as momentous as the definition of the political community.

That same determination with respect to neighborhoods cannot be achieved through such direct measures. Since the neighborhood is not a recognized legal entity, the law has no formal rules for setting its boundaries. Rather, at most, it has—as Davidson and Fagundes teach us—rules for assigning neighborhood names. In naming a place, the law also inevitably defines the place the name will cover. In other words, the law draws neighborhood boundaries through processes for neighborhood naming.[50] This nature of neighborhood naming explains why naming is the locus of contention for neighborhoods, but not, as noted at this Essay's outset, for cities.[51] When the definition of a city as a community is at issue, the battle can focus directly on the true concern residents and owners feel: the boundaries and who falls within them. For a neighborhood's definition, in the absence of distinct processes for boundary-setting, that work is done through naming, which, consequently, is fiercely disputed.

Quarrels over neighborhood names are thus contests over membership—membership in not only a cultural community, but a political one too. The name, which sets the neighborhood boundaries, creates a new political community and designates its membership.[52]

47. OSBORNE M. REYNOLDS, JR., LOCAL GOVERNMENT LAW 241–43 (5th ed. 2019).

48. Michelle Wilde Anderson, *Dissolving Cities*, 121 YALE L.J. 1364, 1375–84 (2012).

49. A famous example is presented by the struggles between, on the one side, the cities of Los Angeles and Long Beach which sought to annex outlying areas and, on the other side, the targeted communities in those unincorporated portions of Los Angeles County that pursued preemptive incorporation. *See* GARY J. MILLER, CITIES BY CONTRACT 17–22, 34–37 (1981).

50. Davidson & Fagundes, *supra* note 7, at 777–78.

51. See *supra* notes 5–6 and accompanying text.

52. On the importance of neighborhood identity and boundaries as signaling feelings of group similarity, see Michèle Lamont & Virág Molnár, *The Study of Boundaries in the Social Sciences*, 28 ANN. REV. SOC. 167 (2002). Unsurprisingly, the need to define who belongs and who does not belong in a neighborhood is enhanced in neighborhoods undergoing change. Jackelyn Hwang, *The Social Construction of a Gentrifying Neighborhood: Reifying and Redefining Identity and Boundaries in Inequality*, 52 URB. AFF. REV. 98, 102 (2016).

Unlike a city, that new community does not always enjoy formal standing. If recognized through a BID it might enjoy formal standing for some—albeit not other—purposes.[53] In most other instances, the named neighborhood's standing is, as far as formal powers go, even more precarious. However, no matter how formally powerless, the named neighborhood can still enjoy enhanced voice in the city. Thanks to the name granted to the subarea, the heretofore assorted residents of the subarea now form part of a "community." The city is likelier to listen to the alleged collective voice of a recognized community than it is to the miscellaneous voices of individual residents—the only voices associated with the subarea before the naming.

The work of political scientists, as well as experiences throughout the land, supports this projection. One social scientist has argued that in order to qualify as a potential recipient of government resources, social actors must first constitute themselves as a legitimate community. This necessary transformation from an aggregate to a "community" can be achieved through organization as a "governmentally-regulated" and "state-sanctioned" entity.[54] A novel neighborhood body fits that bill, but often, so does a neighborhood merely recognized through a newly awarded name. The neighborhood name, as Davidson and Fagundes explain, legitimizes one local group over another. This form of boundary work thus determines which group deserves (and which group does not deserve) government resources such as access to opportunities, benefits, and information.[55] Institutional actors inevitably react to the internal dynamics of the group portrayed, through the neighborhood name, as constituting the relevant subarea's community.[56]

The city is, inevitably, the most important institutional actor affecting subareas within it. It taxes and funds those subareas and designs them through its zoning powers. Particularly when land use or development issues arise respecting such a city subarea, the city is prone to turn to input from the recognized "neighborhood" community. Local officials' tendency to do so might owe to a true, democratic desire to accommodate popular voices. Conversely, it might represent a convenient political tactic providing alleged grassroots cover for policies

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53. The BID collects taxes from property owners, and its functions, as Richard Briffault explains, can be grouped into four categories: physical improvements, social services, business-oriented programs, and traditional municipal services—sanitation, public security, and street maintenance. Richard Briffault, *A Government for Our Time? Business Improvement Districts and Urban Governance*, 99 COLUM. L. REV. 365, 394 (1999).

54. MIRANDA JOSEPH, AGAINST THE ROMANCE OF COMMUNITY 28 (2002).

55. Lamont & Molnar, *supra* note 52, at 167.

56. ROBERT J. SAMPSON, GREAT AMERICAN CITY: CHICAGO AND THE ENDURING NEIGHBORHOOD EFFECT 423 (2012).

city officials already favor. Regardless of motivation, however, the result is identical: while lacking in formal standing, the community created through neighborhood naming might disproportionately impact key development and zoning decisions. The community established through naming modifies layers of accountability: it introduces a new layer seemingly accountable only to the residents contained within that subarea and accounting for them in city-level decisions affecting the subarea.

A few examples can illustrate. Boerum Hill, Brooklyn, is a famous case, among urban studies scholars, of a name coined specifically in order to invent a new community and a new history for an area that until 1964 was simply known as a part of Brooklyn's Gowanus district.[57] The Boerum Hill Neighborhood Association, an informal body consisting of middle-class owners who had begun purchasing brownstones in the area, held no legal powers. Yet it came up with this new moniker that was then adopted by city authorities. Once Boerum Hill was recognized as a New York City neighborhood, it succeeded in obtaining from the City political decisions certain residents desired. Most prominently, in 1973, at the urging of the new Boerum Hill brownstone owners, the New York City Landmark Commission designated that neighborhood as a historic district. The neighborhood association wielded extraordinary power in the city's decisionmaking process culminating in the designation. The Commission was moved to action specifically by the neighborhood association. It consulted with the association throughout, viewing it as standing for the impacted neighborhood (that, as should be recalled, never existed prior to the naming). The Commission actually negotiated for more than seven years the terms of the designation with the association. Per the association's insistence, the Commission expanded the area covered by the preservation order.[58] The eventual designation affected all future development in the area, limiting changes and new construction. It thus impacted not only area owners but many outsiders. Yet once there was a Boerum Hill neighborhood, that was the community whose desires the city-level governmental body was most attentive to.

A similar example can be found in Chattanooga, Tennessee. In 1998, the city formally recognized the neighborhood of Highland Park

57. *See, e.g.*, SULEIMAN OSMAN, THE INVENTION OF BROWNSTONE BROOKLYN: GENTRIFICATION AND THE SEARCH FOR AUTHENTICITY IN POSTWAR NEW YORK 198–99 (2011).

58. Philip Kasinitz, *The Gentrification of "Boerum Hill": Neighborhood Change and Conflicts over Definitions*, 11 QUALITATIVE SOC. 163, 170–71 (1988).

when it chose it as a "Neighborhood of Opportunity."[59] As one researcher notes "[i]t was at this point that the largely internal efforts of a growing number of neighborhood association members became connected to a public-private neighborhood revitalization initiative."[60] The pertinent city-level entity now collaborated with the neighborhood representatives whom it treated as expressing the voice of the area, whether or not this was the truly relevant area or the appropriate group for representing it.[61] The Highland Park Neighborhood Association, for its part, was now able to draw on city-empowered development bodies, and on the federal funds funneled through them, to promote the middle-class development patterns the association desired—to the exclusion of others.[62]

In these cases, certain residents of a city subarea, once that subarea had been recognized through neighborhood naming, were able to use their new collective political voice to steer development toward the direction they desired. The converse also occurs: the city can recognize a neighborhood, through naming, in a way that facilitates development the city, rather than the residents, desires. A city can institute a new neighborhood name, suggested by a developer, thereby isolating the development subarea from the larger community—which might otherwise wield political influence over the development and block it. Through the new and targeted name, the voice of the surrounding residents can be muzzled (in city council and elsewhere).

Brooklyn presents an example for this practice too. An area there, including—but not limited to—an old Long Island Rail Road Yard was picked for the development of fifteen buildings and a major sports arena (the Barclays Center, completed in 2014, currently home to an NBA basketball team, and, at least for one more year, an NHL hockey team). The development required major zoning changes, and the employment of the government's eminent domain power.[63] Many members of the surrounding community—the well-established Prospect Heights neighborhood—vehemently objected to the project.[64] Their

59. The program brought together the city and several non-governmental, non-profit, entities. *See* James C. Fraser et al., *The Construction of the Local and the Limits of Contemporary Community-Building in the United States*, 38 URB. AFF. REV. 417, 425–26 (2003).

60. James C. Fraser, *Beyond Gentrification: Mobilizing Communities and Claiming Space*, 25 URB. GEOGRAPHY 437, 446 (2004).

61. *Id.* at 447.

62. *Id.* 454–55.

63. The use of the eminent domain power to further the development was challenged as a violation of the federal and state constitutions. Both federal and state courts upheld the project. Goldstein v. Pataki, 516 F.3d 50, 53 (2d Cir. 2008); Goldstein v. New York State Urban Dev. Corp., 13 N.Y.3d 511, 517 (2009).

64. N. R. Kleinfield, *Opponents of Atlantic Yards Are Exhausted by a Long, Losing Battle*, N.Y. TIMES (Nov. 25, 2012), https://www.nytimes.com/2012/11/26/nyregion/exhausted-from-an-angry-and-losing-battle-against-barclays-center.html [https://perma.cc/Z3S9-WKP4].

opposition was rendered less effective politically, however, as the development was said to be taking place elsewhere, not in their neighborhood, but in the newly christened "Atlantic Yards" neighborhood. That name was introduced by Forest City Ratner, the developer, in 2003.[65] The specific name "Atlantic Yards" was a particularly effective political dodge for this occasion: it suggested that an 8.5-acre railyard stood for the whole 22-acre development site that also incorporated private property and public streets.[66] And in a final, later twist, to assure that the opposition of those who were actually residing in "Atlantic Yards" when that "neighborhood" was conceived shall have no lasting effects, the developer in 2014 rebranded the neighborhood "Pacific Park."[67]

Always certain it can achieve anything that New York City can just as well, Chicago followed suit and created its own neighborhood named for yards—in this case, "Lincoln Yards"—with the exact same political motives and ramifications. A proposed six billion dollar mixed use project covering a formerly industrial scrap of land on Chicago's north side, Lincoln Yards will incorporate, according to the most recent plans, fifteen million square feet of office and residential towers, restaurants, retail and other spaces.[68] One of the largest developments in the city's history, it will introduce, for the first time ever, tall office buildings to an area situated well outside of downtown.[69] Consequently, the development has not been well received by locals.[70] Residents of the two neighborhoods straddling the project: Lincoln Park and Bucktown, have, through their respective associations, both opposed it.[71] Yet, since the city deems the neighborhood "Lincoln Yards" to not form part of either of those two neighborhoods, and since the newly designated area conveniently lies in the ward of an alderman that does not answer to

65. Jessica Dailey, *Atlantic Yards Rebrands as Pacific Park, Reveals Next Building*, CURBED N.Y. (Aug. 4, 2014), https://ny.curbed.com/2014/8/4/10065204/atlantic-yards-rebrands-as-pacific-park-reveals-next-building [https://perma.cc/GH2D-FF84].

66. Norman Oder, *After 11 Years of Controversy, Atlantic Yards Becomes Pacific Park Brooklyn*, NEXT CITY (Aug. 26, 2014), https://nextcity.org/daily/entry/brooklyn-development-atlantic-yards-name-change-pacific-park-brooklyn [https://perma.cc/9AKY-JCPC].

67. *Id.*

68. Jay Koziarz, *$6B Lincoln Yards Megaproject Approved amid Aldermanic Scandals, Rushed Timeline*, CURBED CHI. (Jan. 24, 2019), https://chicago.curbed.com/2019/1/24/18195902/lincoln-yards-development-zoning-vote-sterling-bay [https://perma.cc/XQP8-KDY4].

69. *Id.*

70. Danny Ecker, *Sterling Bay Gets Heat on Revised Lincoln Yards Plan*, CRAIN'S CHI. BUS. (Nov. 30, 2018), https://www.chicagobusiness.com/commercial-real-estate/sterling-bay-gets-heat-revised-lincoln-yards-plan [https://perma.cc/F7CS-YDJX].

71. *Id.*

either of those groups (whose aldermen indeed oppose the project),[72] the project received the city council's approval in 2019.[73] As with Atlantic Yards, the city's recognition of the new neighborhood name a developer advanced served as a technique to promote development while diminishing the political potency of the surrounding community.

Boerum Hill, Highland Park, Atlantic Yards, and Lincoln Yards, are all examples that highlight how in disparate ways the neighborhood, once recognized through naming, sees its political power amplified—formally or informally. A name empowers a new political player in city decisionmaking while often disempowering other players who otherwise could present themselves as speaking on behalf of the area. This redistribution of power occurs even if the neighborhood does not, following the naming, have a new vote or any other formal power in the local decisionmaking process. The redistribution of political power is very real nonetheless—as the four examples illustrate. Without altering the structure of city governance, a new neighborhood name alters existing lines of accountability and, accordingly, grants political leverage to some at the expense of others.

This eventuality relates, and provides further support, to the argument Davidson and Fagundes make for the theoretical importance of neighborhood naming. The neighborhood name is a node for the interface between formality and informality in local government law.[74] Without formally creating any new political authorities, or bestowing any political power on existing ones,[75] neighborhood naming can unsettle, as seen here, the dynamics surrounding one of the most contested issues in local politics: land use decisions.[76] The political implications of naming thereby stress once more the truth of Davidson and Fagundes's core insight: neighborhood names matter in law. They affect not only the cultural-social lives of city residents as Davidson and

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72. Jay Koziarz, *More Aldermen Speak Out Against Lincoln Yards Development*, CURBED CHI. (Feb. 1, 2019), https://chicago.curbed.com/2019/1/31/18205609/lincoln-yards-development-tif-meeting-moreno [https://perma.cc/HF4L-LYAP] (reporting that the two aldermen representing the two surrounding wards, which cover Bucktown and Lincoln Park, are opposed to the project, and so is a third representing a community close to the site).

73. Jay Koziarz, *Lincoln Yards Approved by Chicago City Council, Only TIF Votes Remain*, CURBED CHI. (Mar. 14, 2019), https://chicago.curbed.com/2019/3/14/18263765/lincoln-yards-approved-city-council-emanuel-tif [https://perma.cc/6KCM-KNSR]; Jay Koziarz, *City Council Approves $2 Billion in TIF Money to Lincoln Yards, The 78*, CURBED CHI. (Apr. 10, 2019), https://chicago.curbed.com/2019/4/10/18304637/lincoln-yards-the-78-tif-finance-committee-city-council [https://perma.cc/AY3A-C9UX].

74. Davidson & Fagundes, *supra* note 7, at 763.

75. On the distinction between formal and informal, or direct and indirect, empowerment of neighborhoods, see Nadav Shoked, *The New Local*, 100 VA. L. REV. 1323, 1333–36 (2014).

76. *See* ROBERT L. LINEBERRY, EQUALITY AND URBAN POLICY: THE DISTRIBUTION OF MUNICIPAL PUBLIC SERVICES 10 (1977) ("The services performed by municipalities are those most vital to the preservation of life (police, fire, sanitation, public health), liberty (police, courts, prosecutors), property (zoning, planning, taxing), and public enlightenment (schools, libraries).").

Fagundes's article proved, and the economic values of residents' properties as Part I of this Essay argued, but also residents' political clout.

Conclusion

Recently, local government law scholars have begun observing, and commenting on, the legal standing of entities that operate below the local, or city, level—the field's traditional focus. Davidson and Fagundes take this literature one (highly significant) step forward. They turn legal thinkers' attention to the below-city-level entity—or more accurately, the below-city-level term—that city residents actually know and experience. Legal writers may refer to a "micro-locality" when observing entities existing below the city level,[77] but no one describes herself as living in a micro-locality. This term, as well as similar ones employed in the literature to describe below city-level areas or entities,[78] is too abstract, too sterile.

Residents live in a *neighborhood*, which they know by its name. And the neighborhood name—that often-random word or words that some associate with the city subarea wherein they live—is actually legally impactful. The law, as *Law and Neighborhood Names* shows, regulates these names' assignment. In doing so, as the Article persuasively argues, local government law interferes in social-cultural disputes. At the same time, when it engages in the policing of neighborhood names, the law also, as this Essay attempted to demonstrate, allocates economic value between property owners, and political power between residents. With so much—culturally, economically, and politically—on the line when neighborhood names are conferred, the law simply cannot afford not to care about neighborhood names.

77. Shoked, *supra* note 75, at 1330.

78. Richard Briffault, *The Rise of Sublocal Structures in Urban Governance*, 82 MINN. L. REV. 503, 509–21 (1997) (discussing "sublocal" governance).