



Volume 21 (2024) | ISSN 1932-1821 (print) 1932-1996 (online)
DOI 10.5195/taxreview.2024.237 | <http://taxreview.law.pitt.edu>

NOTES

YOU CANNOT MAKE MY BLACKNESS A BURDEN: HOW
AMERICA USES TAXATION TO MAINTAIN THE RACIAL WEALTH
GAP AND PREVENT BLACK FLOURISHMENT

Jordan M. Fields



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NOTES

YOU CANNOT MAKE MY BLACKNESS A BURDEN: HOW AMERICA USES TAXATION TO MAINTAIN THE RACIAL WEALTH GAP AND PREVENT BLACK FLOURISHMENT

*Jordan M. Fields**

This Note is written from the perspective and positionality¹ of the descendant of an enslaved person who ran away from the plantation on which they were held captive to fight in the Union Army during the Civil War; the descendant of a sharecropper who died laboring in the tobacco fields of North Carolina; the grandchild of a Black veteran who was denied the benefits of the G.I. Bill; that is to say, from the perspective of someone whose family has endured undue burdens in the United States because of our skin color. My family's story is not unique, but like countless others, it illustrates the cost, across generations, of being Black in America.

This Note explores how Black Americans' and subsequently Black communities' ability to build wealth has been stifled, in part, by the U.S. property tax system, which has made it extremely difficult for the people who created much of America's wealth to build it for themselves. I will present a case study on neighboring New Jersey municipalities to show that despite the state allegedly having one of the fairest property tax systems in the nation, disparities in property taxes result in unequal opportunities for

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¹ Christine Harrington, *Reflect on Your Positionality to Ensure Student Success*, INSIDE HIGHER ED (Jan. 25, 2022), <https://www.insidehighered.com/advice/2022/01/26/successful-instructors-understand-their-own-biases-and-beliefs-opinion>.

Black and white homeowners in neighboring communities to build wealth through their homes. Data shows that homes in predominantly white neighborhoods are appraised at approximately three times the value of comparable homes in communities of color, and those homes appreciated approximately \$200,000 more in the last decade than those in predominantly Black neighborhoods.² Moreover, research shows that white homeowners prefer to live in white communities and that, once the Black population of a neighborhood reaches 10%, property loses approximately 16% of its value.³ This reality puts Black prospective homebuyers in a bind—if they want their investment in a home to result in some sort of equity or wealth, their best chance at doing so is to purchase a home in a predominantly white community.⁴

While Black Americans who purchase homes in predominantly white communities might have a better chance of building wealth through their homes, their property taxes often consist of two payments—a financial tax to support local institutions and infrastructure, among other things, and a tax on the mind, body, and soul, caused by racially charged interactions with white neighbors and community members. I hesitate to call these interactions microaggressions because that phrase implies that these interactions have a small impact and are rooted in white innocence or ignorance. The tax I am speaking of may even be considered by some to be a form of the “Black tax,”⁵ explored by Jody Armour, which refers to the price Black people pay in their encounters with white people due to racial stereotypes.⁶ With white Americans serving as “tax collectors,”⁷ the “Black

² Junia Howell, *2022 Appraised Update*, ERUKA 2, 9 (May 2023), https://static1.squarespace.com/static/62e84d924d2d8e5dff96ae2f/t/6465321aca101a0b82e45344/1684353568112/Howell+2022+Appraised+Update_05_01_23.pdf.

³ David R. Harris, “*Property Values Drop When Blacks Move in, Because . . .*”: *Racial and Socioeconomic Determinants of Neighborhood Desirability*, 64 AM. SOCIO. REV. 461, 471 (1999).

⁴ DOROTHY A. BROWN, *THE WHITENESS OF WEALTH: HOW THE AMERICAN TAX SYSTEM IMPOVERISHES BLACK AMERICANS—AND HOW WE CAN FIX IT* 82 (2021).

⁵ JODY DAVID ARMOUR, *NEGROPHOBIA AND REASONABLE RACISM: THE HIDDEN COSTS OF BEING BLACK IN AMERICA* 13–14 (1997).

⁶ The phrase “Black tax” is also used in South Africa to refer to the burden placed on first-generation college graduates and professionals to assist family members; however, I am referring to the term in the American context, as explored by Jody Armour. *Id.*

⁷ See ARMOUR, *supra* note 5, at 13–14.

tax” is imposed on Black people of all socioeconomic statuses, including those living in middle- and upper-class communities, and affords tax-exempt status to no one.⁸ In tandem, the financial property tax payment and the “Black tax” experienced by Black homeowners in white communities paid in exchange for a home that will (hopefully) build wealth, present a particularly heavy financial and emotional burden on many Black homeowners. While the additional property tax I am theorizing is collected through an emotional payment, this is not the first time in U.S. history that Black property owners have faced a double tax burden, hindering their ability to build wealth.⁹ This is not the experience of *all* Black homeowners who live in white neighborhoods, but it is the experience of *enough* of them that the combination of financial and emotional property taxes must be considered before advocating homeownership as the preeminent way for Black Americans to build wealth and prosper.

I. WEALTH-BUILDING THROUGH CHATTEL SLAVERY

Although the idea was for America to be founded in liberty, America’s “founders”¹⁰ displayed a conditional belief in this principle through their participation in the global human trafficking system which was the transatlantic slave trade. Through this evil system, white Europeans forcibly developed a nation whose economy and culture were predicated on the stolen labor of enslaved Black people.¹¹ Once declared the legal property of white people under the Fifth Amendment to the U.S. Constitution,¹² Black people’s opportunities and success in America have been marked by government-created and imposed obstacles and white violence.

⁸ Jody Armour, “Black Tax”—the Tithe That Binds, L.A. TIMES (Nov. 20, 2005, 12:00 PM), <https://www.latimes.com/archives/la-xpm-2005-nov-20-oe-armour20-story.html>.

⁹ CAMILLE WALSH, RACIAL TAXATION: SCHOOLS, SEGREGATION, AND TAXPAYER CITIZENSHIP, 1869–1973, at 55 (2018).

¹⁰ I use quotes around the phrase “founded” and “founders” because the authors of the nation’s founding documents did not “find” the land we now call America—they colonized it.

¹¹ NIKOLE HANNAH-JONES ET AL., THE 1619 PROJECT: A NEW ORIGIN STORY 10 (NIKOLE HANNAH-JONES ET AL. 2021).

¹² Dred Scott v. Sandford, 60 U.S. 393, 389–99 (1857).

Codified into America's founding documents and legal system is the notion that the descendants of enslaved Africans are to be recognized as subhuman and treated as second-class citizens.¹³ The U.S. Constitution mandated that for representation and direct taxation purposes, three-fifths of the enslaved population would be counted towards the state's total population.¹⁴ The "Three-Fifths Compromise" allowed Southern slave states to increase their electoral power,¹⁵ particularly during presidential elections,¹⁶ and manipulated the amount of taxes levied on each Southern slave state.¹⁷ Southerners initially believed this tax to be an attack on the institution of slavery, and while the compromise did burden the South¹⁸ it afforded Southern states greater representation in the House of Representatives and extra votes in the Electoral College.¹⁹ Nevertheless, it was an explicit act of degradation that contributed to a lengthy history of the devaluation of Blackness in America. After the Fifteenth Amendment²⁰ was passed in the late nineteenth century, white people undermined its promise of voting rights for all regardless of former enslavement status by forcing Black Americans to pay poll taxes to participate in elections.²¹ These are just two examples of how taxation has been used to protect the

¹³ Nadra Kareem Nittle, *The History of the Three-Fifths Compromise*, THOUGHTCO., <https://www.thoughtco.com/three-fifths-compromise-4588466> (last updated Oct. 30, 2020). For a better understanding of how the American legal system labeled Black Americans as property, see generally *Scott*, 60 U.S. 393.

¹⁴ U.S. CONST. art. 1, § 2, cl. 3.

¹⁵ Nittle, *supra* note 13.

¹⁶ Paul Finkelman, *The Union Wasn't Worth the Three-Fifths Compromise on Slavery*, N.Y. TIMES: ROOM FOR DEBATE, <https://www.nytimes.com/roomfordebate/2013/02/26/the-constitutions-immoral-compromise/the-union-wasnt-worth-the-three-fifths-compromise-on-slavery> (last updated Feb. 27, 2013, 3:08 PM).

¹⁷ Paul Finkelman, *Garrison's Constitution: The Covenant with Death and How It Was Made*, NAT'L ARCHIVES (2000), <https://www.archives.gov/publications/prologue/2000/winter/garrisons-constitution-1>.

¹⁸ ROBIN L. EINHORN, AMERICAN TAXATION, AMERICAN SLAVERY 199 (2006).

¹⁹ *Id.* at 198.

²⁰ U.S. CONST. amend. XV.

²¹ Allison Keyes, *Recalling an Era When the Color of Your Skin Meant You Paid to Vote*, SMITHSONIAN (Mar. 18, 2016), <https://www.smithsonianmag.com/smithsonian-institution/recalling-era-when-color-your-skin-meant-you-paid-vote-180958469/>.

assets and interests of wealth and whiteness, at the expense of Black Americans.

It should be clear by now that America’s “founders” had the opportunity to demonstrate through taxation, a commitment and adherence to the principles on which America was supposedly created. Nevertheless, taxation has been used to protect private property and the interests of the most privileged, whether it be the Black people held in bondage by white people or property and voting rights that white people exclusively enjoyed.²² Today, it is property taxation that places an undue burden on Black Americans and inhibits their opportunity to achieve the hallmark of what is commonly understood to be the “American Dream”: wealth building through homeownership.

The disproportionate property tax burden Black homeowners face undoubtedly contributes to the racial wealth gap and creates a difference in well-being for Black and white Americans.²³ The modern-day racial wealth gap is the direct result of chattel slavery, racist public policy, and white violence. Centuries of exploited labor, white supremacist massacres such as those in Wilmington and Tulsa, unfulfilled promises such as Special Field Orders No. 15, and racially exclusive government-sponsored wealth-building policies, practices, and programs, helped to create the gap that exists today.²⁴ Currently, the median white household has a net worth ten times that of the median Black household, and wealth in America is being hoarded by a small group of billionaires.²⁵ While Black people account for

²² Jeffrey Sachs, *America’s Tax System Is Rigged to Protect the Rich and Powerful*, CNN (June 10, 2021, 5:54 PM), <https://www.cnn.com/2021/06/10/opinions/america-tax-system-rigged-protect-rich-sachs/index.html>.

²³ Andre M. Perry & Jonathan Rothwell, *We Need to Talk About Well-Being: Why the Study of Well-Being Is Crucial for Race Relations and Advancing Prosperity*, BROOKINGS (Apr. 28, 2023), <https://www.brookings.edu/articles/we-need-to-talk-about-well-being-why-the-study-of-well-being-is-crucial-for-race-relations-and-advancing-prosperity/>.

²⁴ Trymaine Lee, *A Vast Wealth Gap, Driven by Segregation, Redlining, Evictions and Exclusion, Separates Black and White America*, N.Y. TIMES (Aug. 14, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/racial-wealth-gap.html>. For an example of how the actions of a government agency created residential segregation and contributed to the racial wealth gap, see BROWN, *supra* note 4, at 66–68.

²⁵ Vanessa Williamson, *Closing the Racial Wealth Gap Requires Heavy, Progressive Taxation of Wealth*, BROOKINGS (Dec. 9, 2020), <https://www.brookings.edu/research/closing-the-racial-wealth-gap-requires-heavy-progressive-taxation-of-wealth/>.

approximately 13.6% of the U.S. population,²⁶ they hold only one-sixth of the wealth white Americans hold—a bleak statistic that has worsened during the COVID-19 pandemic.²⁷ If Black people owned a proportion of wealth in this country that was comparable to their representation in the U.S. population, they would own approximately \$12.6 trillion in household wealth, as opposed to the actual sum of \$2.5 trillion. Consequently, the actual value of the racial wealth gap in America between Black and white people is estimated to be \$10.14 trillion.²⁸ Indeed, the wealthiest people in America, who are almost exclusively white, hold financial wealth that most Americans can only dream of.²⁹

Researchers have long argued that homeownership is the primary tool for increasing Black wealth.³⁰ However, this proposition does not consider that Blackness has historically been a determinant of one's ability to purchase a home, where that home could be purchased, the home's appraised value, the benefits and services supposedly afforded by the payment of property taxes, and the current and future market value of that home. Black Americans are often led to believe that, like white families in the early twentieth century (who received significant government assistance), we too can build generational wealth through the private housing industry and the process that is homeownership. Nevertheless, for many Black Americans, homeownership has not presented the same privileges and payoffs that it has for white homeowners. The disproportionate financial and emotional tax burden Black people face when purchasing a home that actually will build wealth is a primary reason why.

²⁶ *Quick Facts, United States*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/US/PST045221> (last visited Sept. 22, 2023).

²⁷ Catarina Saraiva, *Black-White Wealth Gap Getting Worse, 160 Years of U.S. Data Show*, BLOOMBERG (June 7, 2022, 7:00 AM), <https://www.bloomberg.com/news/articles/2022-06-07/black-white-wealth-gap-getting-worse-160-years-of-us-data-show>.

²⁸ Williamson, *supra* note 25.

²⁹ *Id.*

³⁰ Alanna McCargo & Jung Hyun Choi, *Closing the Gaps: Building Black Wealth Through Homeownership*, URBAN INST. 1, https://www.urban.org/sites/default/files/publication/103267/closing-the-gaps-building-black-wealth-through-homeownership_1.pdf (last updated Dec. 2020).

II. ESSEX COUNTY, NEW JERSEY: A CASE STUDY

Comparing my hometown of Maplewood Township in New Jersey, to neighboring Irvington Township in New Jersey, I will analyze and compare estimated property values, property tax rates, and the quality of property tax benefits in each municipality. In the following section, I provide a variety of information on the history of property taxation in New Jersey and the demographics of Maplewood and Irvington. My purpose in doing so is to briefly explain the evolution of the state's property tax and demonstrate that although it is considered one of the most equitable in the nation,³¹ it creates serious disparities in property tax bills between New Jersey residents of different racial groups and economic classes who live in close proximity. Moreover, such disparities become even more evident when you compare the quality of the municipal services in the two towns. Ultimately, as you will see, despite living in neighboring communities, residents of Irvington, an overwhelmingly Black community, are spending a greater percentage of their income on property taxes than residents of Maplewood, a more affluent and racially diverse community, despite Irvington residents earning less income on average than Maplewood residents, and occupying homes that are valued less than homes in Maplewood.

In New Jersey, property taxes have origins in the colonial era. A tax of one-half penny per acre of land owned was imposed to support the central government and levied on land and personal property at “arbitrary rates.”³² In 1851, public laws mandated uniform assessments based on the actual value of property,³³ and in 1875, uniform property tax assessments were written into the New Jersey Constitution³⁴ (only nine years after slavery

³¹ John Reitmeyer, *New Jersey's Tax System Ranked Among Fairest in the Country*, NJ SPOTLIGHT NEWS (Oct. 18, 2018), <https://www.njspotlightnews.org/2018/10/18-10-17-new-jerseys-tax-system-is-ranked-among-the-fairest-in-the-country/>.

³² *A Short History of the New Jersey Property Tax and the Long Road to Reform*, N.J. STATE LEAGUE OF MUNS. 2, <https://www.njlm.org/DocumentCenter/View/481/A-Short-History-of-the-New-Jersey-Property-Tax-PDF> (last visited Mar. 22, 2024).

³³ *Id.*

³⁴ *Id.*

was constitutionally abolished in the state).³⁵ Today, a New Jersey homeowner's property taxes are determined by six factors: (1) the market value of the property owned; (2) the cost of municipal and county programs and services; (3) the costs of local public schools; (4) the availability of other revenue to cover those costs; (5) the extent of the presence of tax-exempt properties in the municipality; and (6) the total value of all the taxable properties in the municipality.³⁶ Consequently, if there is an increase in the value of the property or any of the other factors listed above, then the homeowner's property taxes will likewise increase.³⁷

All taxable property in New Jersey is assessed by a local assessor and then assigned a "taxable value," except qualified farmland, which is "specifically valued."³⁸ Annually, school districts and municipal and county governing bodies notify County Tax Boards of their budgetary requirements through adopted budgets, and the levies are "totaled to represent the amount to be raised by taxation."³⁹ The tax levy is divided by the total assessed value of all taxable property within the tax base to determine the general tax rate, and that rate is applied to the assessed value of each "parcel of property to determine the property owner's tax liability."⁴⁰

The following statistics illustrate how Maplewood and Irvington differ in terms of population size, racial makeup, and education and income levels, among other attributes. Furthermore, these data make clear that the disparity between the average property tax bill in the neighboring communities, coupled with the disparities in municipal services, is a clear injustice falling harshly on the community with the larger Black population. What is not immediately evident, is the difference in the way these two communities are *perceived* by New Jersey residents. Maplewood has a

³⁵ Noelle Lorraine Williams, *New Jersey, The Last Northern State to End Slavery*, NJ.GOV, <https://nj.gov/state/historical/his-2021-juneteenth.shtml> (last visited Mar. 22, 2023).

³⁶ *Property Tax in New Jersey*, N.J. STATE LEAGUE OF MUNS., <https://www.njlm.org/198/Property-Tax-in-New-Jersey> (last visited Mar. 22, 2023).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

reputation as an idyllic town, likened to the suburban version of Brooklyn, a cultured, diverse, welcoming community.⁴¹ Conversely, Irvington has not been perceived as positively as Maplewood. A simple Google search about the “perception of Irvington Township” demonstrates that there are existing concerns about gang activity, the financial stability of the municipality, and affordability. Despite sharing a border, the demographics of these two communities paint two very different pictures about how New Jersey residents are living and call into question why in 2022, the average property tax bill for Irvington residents was approximately 15% of residents’ median household income, while the average property tax bill in Maplewood was 10.7% of residents’ median household income. This almost 5% disparity, combined with the disparity in household income between the two towns, should make everyone question whether our property tax system is truly just.

Maplewood is a suburban community located several miles away from Manhattan with a population of approximately 25,000 residents, 54.3% of whom are white and 33.5% of whom are Black.⁴² In contrast, Irvington, which borders Maplewood, is more than twice as large, having a population of approximately 60,000 residents that is 82.3% Black and 6.3% white.⁴³ In Maplewood, 68.2% of the population has a Bachelor’s degree or higher,⁴⁴ while in Irvington, 22.3% of the population has a Bachelor’s degree or higher.⁴⁵ Further, the median household income in 2022 dollars in Maplewood was \$165,681, and only 3.4% of the population lived in poverty.⁴⁶ Conversely, in Irvington, the median household income in 2022 dollars was \$57,293, and 19% of the population lived in poverty.⁴⁷ In

⁴¹ Jill P. Capuzzo, *Maplewood, N.J.: If Brooklyn Were A Suburb*, N.Y. TIMES (Oct. 8, 2014), <https://www.nytimes.com/2014/10/12/realestate/maplewood-nj-if-brooklyn-were-a-suburb.html>.

⁴² *QuickFacts, Maplewood Township*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/maplewoodtownshippessexcountynewjersey> (last visited Mar. 22, 2024).

⁴³ *QuickFacts, Irvington Township*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/irvingtontownshippessexcountynewjersey> (last visited Mar. 22, 2023).

⁴⁴ *QuickFacts, Maplewood Township*, *supra* note 42.

⁴⁵ *QuickFacts, Irvington Township*, *supra* note 43.

⁴⁶ *QuickFacts, Maplewood Township*, *supra* note 42.

⁴⁷ *QuickFacts, Irvington Township*, *supra* note 43.

Maplewood, 73.8% of the population is in the civilian labor force, the owner-occupied housing rate is 77%, and the median value of owner-occupied housing is \$638,000.⁴⁸ Conversely, in Irvington, 68.2% of the population is in the civilian labor force, the owner-occupied housing rate is 29.7%, and the median value of owner-occupied housing is \$258,900.⁴⁹

In Maplewood, the average 2022 property tax bill was \$17,744.⁵⁰ Residents' tax dollars are apportioned as follows: 0.53% to county open space, 0.28% for municipal open space, 1.19% for libraries, 14.71% for the county, 26.58% for the municipality, and 56.72% for schools.⁵¹ In Irvington, the average 2022 property tax bill was \$8,642.⁵² Residents' tax dollars are allotted as follows: 0.4% for county open space, 0.87% for libraries, 10.95% for the county, 18.01% for schools, and 69.77% for the municipality.⁵³ Dividing the average property tax bill in each town by its median household income shows that the average 2022 property tax bill in Maplewood was 10.7% of residents' median household income, while in Irvington, the average property tax bill was approximately 15% of the median household income.

On average, Irvington residents are spending a greater proportion of their annual income on property taxes than Maplewood residents, despite the median value of owner-occupied housing in Maplewood being almost 250% that of owner-occupied housing in Irvington and Maplewood residents earning almost 300% of the annual median income of Irvington residents. Basic arithmetic informs my conclusion that Irvington residents are spending a greater proportion of their income on property taxes, and

⁴⁸ *QuickFacts, Maplewood Township, supra* note 42.

⁴⁹ *QuickFacts, Irvington Township, supra* note 43.

⁵⁰ Caren Lissner, *Property Taxes in Maplewood Among 25 Highest in NJ: See Rank*, PATCH, <https://patch.com/new-jersey/maplewood/property-taxes-maplewood-among-25-highest-nj-see-rank> (last updated Mar. 3, 2023).

⁵¹ *Essex Cnty. Tax Board, Tax Rate, TWP. OF MAPLEWOOD*, <https://www.essexcountynjtaxboard.org/tax-rate/> (last visited Mar. 24, 2024).

⁵² Eric Kiefer, *Highest NJ Property Taxes: See Where Your Town Ranks on New List*, PATCH, <https://patch.com/new-jersey/montclair/highest-nj-property-taxes-see-where-your-town-ranks-new-list> (last updated Mar. 1, 2023).

⁵³ *Tax Rate, CNTY. OF ESSEX, N.J.*, <https://www.essexcountynjtaxboard.org/tax-rate/> (last visited Mar. 22, 2024).

begs the question: Do Irvington residents receive the benefits that property ownership is *supposed* to provide? I would argue no, especially in comparison to the property tax benefits that residents of neighboring Maplewood receive. Further, does this difference in lived experience, made clear by the census data above, have anything to do with the fact that Irvington is overwhelmingly Black whereas Maplewood is not? As a longtime Maplewood resident, I am certain that the answer is yes.

A. Public Education Disparities

Irvington High School (IHS) is a public school that serves grades nine through twelve, has a total enrollment of 1,553 students, and was awarded an overall score of less than twenty-five by *U.S. News and World Report*.⁵⁴ *U.S. News and World Report* calculates the overall score by weighing six factors of school quality and then summing them up to a number between zero and 100. They then use the overall score to reflect how well a school performs on a national percentile basis.⁵⁵ IHS has a 99.9% minority student enrollment, with a 75% Black enrollment and a 23.8% Hispanic enrollment.⁵⁶ Sixty-three percent of IHS students are economically disadvantaged: 56% are eligible for the national free-lunch program and 6% are eligible for the reduced-lunch program.⁵⁷ At IHS, the student-to-teacher ratio is fourteen-to-one. While students have the opportunity to enroll in Advanced Placement (AP) courses, the percentage of twelfth-grade students who take at least one AP course is 22% and the “exam pass rate,” or the percentage of AP exams taken that resulted in a passing score of three or higher, sits at 17%.⁵⁸ Additionally, IHS has been given a college readiness index of 47.9. This index is calculated based on student performance on

⁵⁴ *Irvington High School*, U.S. NEWS & WORLD REP., <https://www.usnews.com/education/best-high-schools/new-jersey/districts/irvington-public-school-district/irvington-high-school-12591> (last visited Mar. 23, 2024).

⁵⁵ Robert Morse & Eric Brooks, *How U.S. News Calculated the 2023–2024 Best High Schools Rankings*, U.S. NEWS & WORLD REP. (Aug. 28, 2023, 9:00 PM), <https://www.usnews.com/education/best-high-schools/articles/how-us-news-calculated-the-rankings>.

⁵⁶ *Irvington High School*, *supra* note 54.

⁵⁷ *Id.*

⁵⁸ *Id.*

state-required tests and AP exams. Moreover, test scores on state-mandated proficiency exams are alarming—in math, science, and reading, the school’s subject proficiency falls far below the state average.⁵⁹ Data based on the 2019–20 and 2020–21 school years indicate that \$18,661 is spent per student, and while over half the school district’s budget is spent on instruction, a little less than half is spent on support services.⁶⁰ Lastly, the IHS graduation rate is 81%, which is well below the state median.⁶¹

Columbia High School (CHS), which is located less than two miles down the street from Irvington High School, is located in Maplewood and serves the South Orange-Maplewood School District. Like IHS, CHS serves grades nine through twelve and has a total enrollment of 1,910 students; however, CHS received an overall score of 94.15 from *U.S. News and World Report*.⁶² CHS has a minority enrollment of 50.4%, including a 31.7% Black enrollment, an 8.1% Hispanic enrollment, a 3.8% Asian enrollment, and a 6.4% mixed-race enrollment.⁶³ At CHS, 14% of students are economically disadvantaged: 11% qualify for the free-lunch program and 2% qualify for the reduced-lunch program.⁶⁴ The student-to-teacher ratio is twelve-to-one; the proportion of the twelfth-grade class that takes at least one AP exam is 68%; and the AP exam pass rate at CHS is 80%.⁶⁵ The school’s college readiness index is 61.7, which is 13.8 points higher than IHS’s index. Likewise, the subject proficiency scores at CHS are considerably higher than they are at IHS. In all subjects except for science, the school’s proficiency scores exceed the state’s average.⁶⁶ Spending per pupil at CHS is \$19,108, but in the South Orange-Maplewood School

⁵⁹ *Id.*

⁶⁰ *Irvington Public School District*, U.S. NEWS & WORLD REP., <https://www.usnews.com/education/k12/new-jersey/districts/irvington-public-school-district-109369> (last visited Mar. 23, 2024).

⁶¹ *Irvington High School*, *supra* note 54.

⁶² *Columbia High School*, U.S. NEWS & WORLD REP., <https://www.usnews.com/education/best-high-schools/new-jersey/districts/south-orange-maplewood-school-district/columbia-high-school-12765> (last visited Mar. 23, 2024).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

District, over 50% of funding is spent on instruction, over 25% is spent on support services, and a small percentage is spent on “other spending.”⁶⁷ Finally, the graduation rate at CHS is 90%, which is also below the state median.⁶⁸

While Columbia High School’s data might look impressive, the school has faced numerous complaints in the past decade concerning patterns of racial discrimination in the classroom and discipline practices.⁶⁹ Additionally, although I am comparing data on standardized exam performance, these tests are proven to be racially and culturally biased, with Black and Latino students scoring lower on average than their white peers.⁷⁰ These exams *may* reflect how well students are learning what they are being taught in the classroom, but they are not indicative of a student’s intelligence or academic capabilities and should not be used as a metric to determine whether or not a child can succeed academically.⁷¹ Despite being located down the street from one another, students have drastically different experiences at Irvington and Columbia High Schools.

B. Public Libraries as Community-Funded Institutions

Irvington Township’s single public library operates on a \$1 million annual budget and offers access to books, research databases, community

⁶⁷ *South Orange-Maplewood School District*, U.S. NEWS & WORLD REP., <https://www.usnews.com/education/k12/new-jersey/districts/south-orange-maplewood-school-district-112458> (last visited Mar. 23, 2024).

⁶⁸ *Id.*

⁶⁹ I was the lead complainant in a civil rights complaint filed by the American Civil Liberties Union, ACLU of New Jersey, and the Center for Civil Rights Remedies of the Civil Rights Project at UCLA, challenging tracking and school discipline practices in the South Orange-Maplewood School District. See Jay Matthews, *Why Can't an N.J. Man's Daughter Take AP Calculus?*, N.Y. TIMES (Apr. 14, 2014, 4:05 PM), https://www.washingtonpost.com/local/education/why-cant-his-daughter-take-ap-calculus/2014/04/13/23ba9d48-c195-11e3-bcec-b71ee10e9bc3_story.html.

⁷⁰ John Rosales & Tim Walker, *The Racist Beginnings of Standardized Testing*, NAT'L EDUC. ASS'N (Mar. 20, 2021), <https://www.nea.org/advocating-for-change/new-from-nea/racist-beginnings-standardized-testing>.

⁷¹ See Christopher Jencks & Meredith Phillips, *The Black-White Test Score Gap: Why It Persists and What Can Be Done*, BROOKINGS (Mar. 1, 1998), <https://www.brookings.edu/articles/the-black-white-test-score-gap-why-it-persists-and-what-can-be-done/>.

services, and events.⁷² Additionally, the Irvington Public Library offers homework help, exam proctoring services, and useful educational resources for parents of Irvington children.⁷³ The Maplewood Library, which has two branches, has a budget of over \$2.1 million, with \$2 million apportioned by the municipality and a little under \$100,000 raised through fines, fees, and rentals, as of 2015.⁷⁴ The Maplewood Library system offers reading services, informational community events, and other benefits like museum passes, notary services, and English for Speakers of Other Languages (ESOL) classes, as well as enrichment programs for teens, tutoring services, mental health resources, and counseling and family service programming.⁷⁵ The main branch of the Maplewood Library system is currently being redesigned and is under construction,⁷⁶ so the second branch of the Maplewood Library system as well as a former Office of Emergency Management building currently houses the town's book collection.⁷⁷ The renovations will create an electric building that does not use fossil fuels and has solar roof panels that will reduce the library's energy use.⁷⁸

Libraries are community institutions that provide free access to books, technology, and other services community members might not otherwise receive.⁷⁹ Library services can complement formal education, help residents prepare formal documents, prepare for higher education, and diversify their

⁷² *About Us*, IRVINGTON PUB. LIBR., <http://www.irvingtonpubliclibrary.org/about-us> (last visited Mar. 23, 2024).

⁷³ *Id.*

⁷⁴ *Building for the Future: Frequently Asked Questions*, MAPLEWOOD LIBR. (Jan. 30, 2017), <https://www.maplewoodlibrary.org/expansion-updates-blog/2019/4/23/frequently-asked-questions-about-the-rfp-and-the-project>.

⁷⁵ *Services*, MAPLEWOOD LIBR., <https://www.maplewoodlibrary.org/services-esl> (last visited Mar. 23, 2024).

⁷⁶ *A New Library*, MAPLEWOOD LIBR. FOUND., <https://www.maplewoodlibraryfoundation.org/library-renovation2> (last visited Mar. 23, 2024).

⁷⁷ Joanne Beckerich, *Maplewood Library to Relocate as We Build a 21st Century Library*, TAPINTOSOMA (Aug. 2, 2021, 9:45 PM), <https://www.tapinto.net/towns/soma/categories/press-releases/articles/maplewood-library-to-relocate-as-we-build-a-21st-century-library>.

⁷⁸ *Id.*

⁷⁹ Eric Klinenberg, *Palaces for the People: Why Libraries Are More Than Just Books*, GUARDIAN (Sept. 24, 2018, 2:15 PM), <https://www.theguardian.com/cities/2018/sep/24/palaces-for-the-people-at-the-library-everyone-is-welcome>.

worldview. Although both towns' library systems offer more than just books, the budget for the Maplewood Library is twice the size of Irvington's, despite it serving a much smaller municipal population. A larger operating budget means that a library can provide more services and events for the community and allows for renovations like the ones Maplewood is now making, which will result in a more accessible library building and improved resources for the benefit of the community.

C. County/Municipal Services

In New Jersey, property taxes also cover the cost of municipal and county budgets.⁸⁰ These budgets can include the cost of garbage pickup, snow removal, and other municipal services. Irvington's 2022 adopted budget was \$123,948,436.81 and covered expenses for snow removal, public defenders, housing services, park maintenance, fire and police departments, and school guards, among other services.⁸¹ In Maplewood, the 2022 adopted budget was over \$53 million with appropriations for similar services as Irvington, including the police and fire departments, public works, and sanitation.⁸² While both municipalities are designating funds for similar services, the Irvington Township budget is over two times that of neighboring Maplewood Township. This might be attributable to the population difference between the two towns. Further, both towns sit in Essex County, which had a 2022 budget of \$865 million.⁸³ Note that taxpayers in Maplewood and Irvington are also paying for expenses at the county level, including salaries and wages for county officials, county departments, and expenses for correctional services, public works, and infrastructure.⁸⁴

⁸⁰ *Property Tax in New Jersey*, N.J. STATE LEAGUE OF MUNS., <https://www.njlm.org/198/Property-Tax-in-New-Jersey> (last visited Mar. 24, 2024).

⁸¹ TWP. OF IRVINGTON, 2022 MUNICIPAL BUDGET OF IRVINGTON TOWNSHIP (2022).

⁸² TWP. OF MAPLEWOOD, 2021 MUNICIPAL DATA SHEET (2021).

⁸³ ESSEX CNTY., 2022 COUNTY BUDGET (2023).

⁸⁴ *Id.*

III. ANALYSIS

A. Home Valuation Mechanisms Create Racial Wealth Disparities

While laws have been passed in an attempt to abolish policies and practices that maintain residential segregation and force Black people into concentrated communities, the notion that racism and racist practices end when legislation declares them illegal is a fallacy. Numerous attempts have been made to eradicate the second-class-citizen status of Black people through law and policy; however, progressive legal efforts cannot eradicate centuries of white supremacist practices taught and enforced by our legal system.⁸⁵ There is perhaps no greater example of this than the racism that persists in the housing industry. For decades, white government officials at all levels, financiers, real estate agents, and private actors in the housing industry enforced racist practices in violation of the law to maintain residential segregation.⁸⁶ The effects of their unlawful practices are still felt by Black people today, especially when the value of Black-owned property is put in question.⁸⁷

Home valuation mechanisms, including home appraisals⁸⁸ and property tax assessments,⁸⁹ consistently result in the devaluation of Black-owned property. Appraisals, which are conducted to determine the value of a home based on its location, exterior and interior condition, and features,

⁸⁵ See Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241; see also Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437.

⁸⁶ Menika Dirkson, *The Legacy of Decades of Housing Discrimination Still Plagues the U.S.*, WASH. POST (June 21, 2022, 6:00 AM), <https://www.washingtonpost.com/outlook/2022/06/21/legacy-decades-housing-discrimination-still-plagues-us/>.

⁸⁷ RICHARD ROTHSTEIN, *THE COLOR OF LAW* 77, 94–96 (1st ed. 2017).

⁸⁸ Jonathan Rothwell & Andre M. Perry, *How Racial Bias in Appraisals Affects the Devaluation of Homes in Majority-Black Neighborhoods*, BROOKINGS (Dec. 5, 2022), <https://www.brookings.edu/articles/how-racial-bias-in-appraisals-affects-the-devaluation-of-homes-in-majority-black-neighborhoods/>.

⁸⁹ Andrew Van Dam, *Black Families Pay Significantly Higher Property Taxes Than White Families, New Analysis Shows*, WASH. POST (July 2, 2020, 6:00 AM), <https://www.washingtonpost.com/business/2020/07/02/black-property-tax/>.

in relation to comparable homes,⁹⁰ have historically given assessors, who are overwhelmingly white,⁹¹ the ability to undermine Black homeowners' opportunity to build wealth.⁹² These valuation assessments are ripe with subjectivity and racial bias and are part of the reason why homes in Black neighborhoods are valued at approximately 21% to 23% lower than they would be if located in non-Black neighborhoods.⁹³ In late 2022, the Biden-Harris Administration released 47 million home appraisal reports to the public, which confirmed the existence of racial bias in the home appraisal process.⁹⁴ These reports indicated that greater value was placed on white-occupied homes, as opposed to homes occupied by people of color, and a higher proportion of white-owned homes in a census tract correlated with a higher appraised home value.⁹⁵ For decades, Black homeowners have alleged that their homes were being under-assessed and many have reconfigured their homes to show that when home decorations reflect their racial identity, they are assigned a lower value than when those decorations are removed from the home.⁹⁶

In Baltimore, the National Community Reinvestment Coalition (NCRC) conducted a series of tests to determine whether or not appraisers were treating Black and white homeowners differently.⁹⁷ NCRC hired multiple interracial couples who owned homes in Baltimore to serve as testers and hired two appraisers to appraise each home owned by a test

⁹⁰ Bob Musinski & Maryalene LaPonsie, *What Is a Home Appraisal and How Do They Work?*, FORBES, <https://www.forbes.com/advisor/mortgages/how-home-appraisals-work/> (last updated Nov. 1, 2023, 6:51 PM).

⁹¹ *Assessor Demographics and Statistics in the U.S.*, ZIPPPIA, <https://www.zippia.com/assessor-jobs/demographics/> (last visited Mar. 24, 2024).

⁹² ROTHSTEIN, *supra* note 87, at 169–75.

⁹³ Rothwell & Perry, *supra* note 88.

⁹⁴ Debra Kamin, *Widespread Racial Bias Found in Home Appraisals*, N.Y. TIMES (Nov. 2, 2022), <https://www.nytimes.com/2022/11/02/realestate/racial-bias-home-appraisals.html>.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ Jake Lilien, *Faulty Foundations: Mystery-Shopper Testing in Home Appraisals Exposes Racial Bias Undermining Black Wealth*, NAT'L CMTY. REINVESTMENT COAL. (Oct. 2022), <https://ncrc.org/faulty-foundations-mystery-shopper-testing-in-home-appraisals-exposes-racial-bias-undermining-black-wealth>.

couple.⁹⁸ When one appraiser arrived at the home, only the Black homeowner was present, and when the other appraiser arrived, only the white homeowner was present.⁹⁹ Additionally, for each test, home decorations reflected the race of the homeowner who was meeting the appraiser.¹⁰⁰ Not only did the NCRC tests find that Black homeowners were treated much worse than white homeowners, but on average, the white homeowners received home valuations that were almost \$7,000 higher on average than the valuations received by Black homeowners.¹⁰¹ Tests like this have been conducted across the country¹⁰² to show that appraisals use racially biased valuation mechanisms and ultimately influence the perception of a community, the market value of a home, and a homeowner's ability to build equity during ownership. Due to subjectivity and racial bias, appraisals do not afford Black property owners the same opportunity to build wealth as white property owners.

Property tax assessments contribute to the improper valuation of Black-owned homes, influence the amount of property taxes a homeowner pays, and contribute to the racial wealth gap. In the twentieth century, property tax assessors over-assessed property in Black neighborhoods and under-assessed property in white ones.¹⁰³ Today, researchers have found that Black-owned homes are typically over-assessed relative to their market value, and consequently, when the local tax rate is applied to their homes, it places a 12.7% higher property tax burden on the average Black homeowner than it does on the average white homeowner.¹⁰⁴ Hence, Black homeowners end up paying a property tax bill that is higher than it should be because it is based on an inflated home value.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Robin Young & Serena McMahon, *Biracial Couple Gets Lower House Appraisal with Black Family Member Present*, WBUR (Sept. 23, 2020), <https://www.wbur.org/hereandnow/2020/09/23/home-appraisal-bias-racism>.

¹⁰³ ROTHSTEIN, *supra* note 87, at 170.

¹⁰⁴ CARLOS F. AVENANCIO-LEÓN & TROUP HOWARD, *THE ASSESSMENT GAP: RACIAL INEQUALITIES IN PROPERTY TAXATION I* (2020).

The average white homeowner faces a lower property tax burden because their homes are more likely to be assessed at a value closer to their actual market value or sales price. Property tax assessments result in the over-taxation of Black-owned homes, and research shows that while this “property tax gap” exists among low-income earners, it also impacts the highest-earning Black Americans, meaning that, across income levels, on average, property taxation presents a disproportionate burden on Black Americans than it does on white Americans.¹⁰⁵ Together, home appraisals and property tax assessments invite racial biases into the home-valuation process and negatively impact the market value of Black-owned property.¹⁰⁶

Despite sharing a border and having high schools situated on the same street, the median value of owner-occupied housing in Maplewood is approximately \$638,000¹⁰⁷ while the median value of owner-occupied housing in Irvington is approximately \$281,900.¹⁰⁸ In Maplewood, the average 2022 property tax bill was \$17,744 while it was \$8,642 in Irvington.¹⁰⁹ Additionally, the median household income in 2022 dollars in Maplewood was \$165,681¹¹⁰ compared to \$57,293 in Irvington.¹¹¹ So, while the property tax system in New Jersey is considered one of the fairest in the country, it still asks Irvington’s predominantly Black population to spend a larger proportion of their (lower) incomes on property taxes for homes of lesser value, than it asks Maplewood’s socioeconomically privileged white homeowners to spend on homes of greater value in a neighboring community. My point is the following: the American homeownership system is deeply unfair and prejudicial—and as one of the many aspects of

¹⁰⁵ Van Dam, *supra* note 89.

¹⁰⁶ Jordan M. Fields et al., *How the Property Tax System Harms Black Homeowners and Widens the Racial Wealth Gap*, BROOKINGS (Aug. 22, 2023), <https://www.brookings.edu/articles/how-the-property-tax-system-harms-black-homeowners-and-widens-the-racial-wealth-gap/>.

¹⁰⁷ *Quick Facts: Maplewood Township*, *supra* note 42.

¹⁰⁸ *Quick Facts: Irvington Township*, *supra* note 43.

¹⁰⁹ Eric Kiefer, *Highest NJ Property Taxes: See Where Your Town Ranks on New List*, PATCH, <https://patch.com/new-jersey/montclair/highest-nj-property-taxes-see-where-your-town-ranks-new-list> (last updated Mar. 1, 2024).

¹¹⁰ *Quick Facts: Maplewood Township*, *supra* note 42.

¹¹¹ *Quick Facts: Irvington Township*, *supra* note 43.

homeownership, property taxation is as well. Even if Black communities were to reconsider the breakdown of their tax dollars, they could not compensate for the extreme disparities property taxation and homeownership create in wealth in the United States.

B. Black Homeowners in Predominantly White Communities Often Pay an Additional, Invisible Property Tax

In the twentieth century, local municipalities intentionally taxed Black people more heavily than white people, suppressing Black laborers' wages through federal and state labor market policies.¹¹² As a result, Black workers had smaller disposable incomes and smaller savings, and their ability to accumulate wealth was diminished. Many communities became unaffordable and Black families were priced out of mainstream housing markets.¹¹³ Similarly, in some Southern states, Black taxpayers were encumbered by double taxation to support the budgets of white schools that barred their children from attendance and to create Black schools to ensure their children received an education.¹¹⁴ Throughout history, Black Americans have been overburdened by taxation and denied the opportunity to save money and build wealth.

As mentioned earlier, homeownership that builds wealth often puts Black homeowners in a bind, raising important questions about whether the hidden costs and racialized experiences that can come with being a Black homeowner in a predominantly white neighborhood are worth enduring. Certainly, some Black homeowners pay hidden costs, not with money but with emotional labor and trauma, to live in a home that will build equity. While not an actual line item on a property tax bill, the racialized interactions many Black homeowners have in white neighborhoods can be a tax on the mind, the body, and the soul that must be considered in the conversation about homeownership, wealth-building, and the racial wealth gap.

¹¹² ROTHSTEIN, *supra* note 87, at 154.

¹¹³ *Id.* at 172–74.

¹¹⁴ CAMILLE WALSH, RACIAL TAXATION: SCHOOLS, SEGREGATION, AND TAXPAYER CITIZENSHIP, 1869–1973, at 68 (2018).

The purpose of taxes, as stated by the Internal Revenue Service (IRS), is to “provide revenue for federal, local, and state governments to fund essential services” that benefit “all citizens.”¹¹⁵ Because taxes reduce taxpayers’ income, when new services or programs are proposed that will require the creation of new taxes, taxpayers must decide if the implementation of the new program or service is worth the reduction in their income.¹¹⁶ Perhaps it is time to reconsider the distribution of the property tax burden based on the compounding tax burdens faced by certain homeowners. The additional, invisible property tax burden faced by Black homeowners who have the opportunity to garner wealth from the purchase of a home is a cost that is seldom mentioned by realtors. Comprised of all the emotionally burdensome interactions with white people in which they expect you to yield to them or “know your place,” these racially charged exchanges, in the aggregate, are emotionally and mentally arduous—and may eventually take a physical toll, as the chronic stress of experiencing racial discrimination can be linked to health disorders.¹¹⁷ This must be understood to be an additional, invisible property tax.

Since 1619,¹¹⁸ white supremacist beliefs about Black people have maintained a caste system in which there is a universal expectation that Black people yield to white people. Furthermore, there is an expectation that Black people understand this and accept their inferiority.¹¹⁹ However, after a series of twentieth-century legal decisions and legislative efforts did away with racial segregation in education, housing, and places of public accommodation,¹²⁰ white people demonstrated that they would rather lose access to the space or property they inhabited than coexist with Black

¹¹⁵ *The Whys of Taxes*, INTERNAL REV. SERV., https://apps.irs.gov/app/understandingTaxes/teacher/whys_thm01_les01.jsp (last visited Mar. 24, 2024).

¹¹⁶ *Id.*

¹¹⁷ Maanvi Singh, “*Long Overdue*”: *Lawmakers Declare Racism a Public Health Emergency*, GUARDIAN (June 20, 2020), <https://www.theguardian.com/society/2020/jun/12/racism-public-health-black-brown-coronavirus>.

¹¹⁸ HANNAH-JONES ET AL., *supra* note 11, at 9.

¹¹⁹ J. William Harris, *Etiquette, Lynching, and Racial Boundaries in Southern History: A Mississippi Example*, 100 AM. HIST. REV. 387, 391–92 (1995).

¹²⁰ *See, e.g.*, *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954); *see also* Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241.

people and be considered legally equal. After the landmark *Brown v. Board of Education* ruling,¹²¹ some public schools were closed and privatized,¹²² forcing Black people to create education opportunities for their children.¹²³ Rather than integrating, public swimming pools were drained, filled with cement, and closed.¹²⁴ And, when Black people moved into predominantly white neighborhoods, their homes were fire-bombed and shot at¹²⁵ and white people moved elsewhere, creating the phenomenon known as “white flight.”¹²⁶

At no point in American history have Black people been afforded exclusive, unfettered access to space and property in the same way white people have, and when Black and white people were legally required to share space and resources, Black people were expected to yield, and still are. Historically, when Black and white people occupy shared space, we have been taught to view whiteness, and those who embody it, as the “standard.”¹²⁷ Conversely, we are taught that Black people and Blackness, in the *same* space, are the standard deviation, to be adjusted and/or questioned because of perceived inferiority and misplacement.¹²⁸ This societal standard enforced by our legal system has established a second-class-citizen status for Black people in America, and the expectation that

¹²¹ See *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

¹²² *The Case That Changed America: Brown v. Board of Education*, NAACP LEGAL DEF. FUND, <https://www.naacpldf.org/brown-vs-board/southern-manifesto-massive-resistance-brown/> (last visited Mar. 24, 2024).

¹²³ Susan Smith-Richardson & Lauren Burke, *In the 1950s, Rather Than Integrate Some Public Schools, Virginia Closed Them*, GUARDIAN (Nov. 27, 2021), <https://www.theguardian.com/world/2021/nov/27/integration-public-schools-massive-resistance-virginia-1950s>.

¹²⁴ HEATHER MCGHEE, *THE SUM OF US: WHAT RACISM COSTS EVERYONE AND HOW WE CAN PROSPER TOGETHER* 25 (2021).

¹²⁵ MATTHEW D. LASSITER & SUSAN CIANCI SALVATORE, *CIVIL RIGHTS IN AMERICA: RACIAL DISCRIMINATION IN HOUSING* 14 (2021).

¹²⁶ Alana Semuels, *White Flight Never Ended*, THE ATL. (July 30, 2015), <https://www.theatlantic.com/business/archive/2015/07/white-flight-alive-and-well/399980/>.

¹²⁷ Michael Morris, *Standard White: Dismantling White Normativity*, 104 CALIF. L. REV. 949, 952 (2016).

¹²⁸ *Id.* at 952, 955.

we yield is perhaps most visible in spaces such as residential communities where Black people are the clear minority.

The additional, invisible tax many Black homeowners experience to garner wealth by living in predominantly white spaces is one that Black people do not pay with money but with diabetes, high blood pressure, stress, and early death.¹²⁹ It originated with chattel slavery; however, during the twentieth century, as overtly racist practices became illegal, subtle and more covert forms of racial discrimination became heavily utilized by white Americans to oppress Black Americans. As white children were taught to take up space to maintain the white supremacist culture of the country and their privileged position, Black children were being taught the exact opposite.¹³⁰ Black parents used household discipline practices to prepare their children for the harsh reality that was being Black in America.¹³¹ Living in fear that their children would be physically harmed or killed for “disrespecting” white people, Black children were taught to yield to them as a survival tactic.¹³²

This lesson, though slightly different today, is still taught in Black households, especially those in predominantly white communities. Black parents understand that their children, at some point, will be judged by the color of their skin and, consequently, must be aware at all times of how they interact with white people; they often teach their children that they are to remember that they are Black, and if they end up in any trouble, will be treated as such. Although decades have passed since the culture of Jim Crow allowed white people to terrorize (and murder) Black people without reason, the threat of white violence against Black people in white

¹²⁹ Anna Flagg, *The Black Mortality Gap, and a Century-Old Document*, MARSHALL PROJECT (Aug. 30, 2021, 5:00 AM), <https://www.themarshallproject.org/2021/08/30/the-black-mortality-gap-and-a-century-old-document>.

¹³⁰ BELL HOOKS, *SALVATION: BLACK PEOPLE AND LOVE* 22–25 (1st ed. 2001).

¹³¹ *Id.* at 22.

¹³² *Id.* at 23.

communities still looms, as made clear by the horrific, violent, racially motivated murder of Ahmaud Arbery in 2020.¹³³

To finish this Note, I spoke to my parents about their perception of our time in Maplewood and the burden we faced living in a predominantly white community. It was unsurprising to learn that two contrasting experiences presented them with an eventful first weekend in the town. On their first Saturday in our house, my uncle, who lived around the corner, and another one of my father's friends were walking up the street from his home to ours. Within a few minutes of them arriving at our home, the police knocked on our door because someone called reporting "suspicious" individuals in the neighborhood. Disappointing as that was to learn, I was unsurprised (again) to discover that, later that same weekend, representatives of the "Welcome Wagon" stopped by to bring greetings to my parents, a tradition then to welcome new residents into the community. Within two days, they had an encounter with the police motivated by racism and experienced kindness from the community. Their whirlwind of a welcome was a reminder that Maplewood, despite its self-purported racial inclusivity, was just like every other community in America. And while we met many kind neighbors and made friends for life, the town carried the scars of racism and white supremacy that were sewn into the fabric of our nation.

Over a decade and a half after my parents moved to Maplewood, the ACLU, ACLU of New Jersey, and the Center for Civil Rights Remedies of the Civil Rights Project at UCLA filed a legal complaint with the federal Department of Education's Office of Civil Rights against the South Orange-Maplewood School District on my family's behalf.¹³⁴ The complaint cited practices of academic tracking and school discipline that affected students differently based on race and ability.¹³⁵ My involvement arose out of the

¹³³ Rashawn Ray, *When Black Men Meet White Communities*, POLITICO (Nov. 24, 2021, 9:18 PM), <https://www.politico.com/news/2021/11/24/when-black-men-meet-white-communities-523372>.

¹³⁴ *Civil Rights Complaint Challenging Tracking and Discipline Practices in South Orange-Maplewood School District*, AM. CIV. LIBERTIES UNION, <https://www.aclu.org/cases/civil-rights-complaint-challenging-tracking-and-discipline-practices-south-orange-maplewood> (last updated Oct. 10, 2014).

¹³⁵ *Id.*

Advanced Algebra 2 classroom I was assigned to, in which an extremely disparaging white teacher went to great lengths to encourage Black children in her class to move into lower-level, less challenging math courses. This teacher's efforts to discourage Black students and steer them away from rigorous math courses were unfortunately successful and, for months, my parents worked with attorneys to challenge the school district's systemic disbelief in Black children.

Now, as an adult, I recognize the extent to which my parents had to go to battle with institutions in my community—schools, local businesses, and sports teams—to protect me from the racism that was so deeply pervasive in our hometown. My father said he moved to Maplewood with the understanding that no matter where we lived, at some point in our lives, our Blackness was going to be on trial and that, as Black people in America, we were going to spend a good portion of our lives in these “fights.” My parents never hid this truth from me. So, in moments that were uncomfortable for me as an adolescent, I learned how to advocate for myself, especially when I sensed discrimination was at play. Nonetheless, it saddens me, and it is tiring to think that, for the rest of my life, I will encounter anti-Black racism that will undoubtedly hamper my well-being.

It is now clear that the burden my family experienced was created in part by our community's failure to acknowledge its truth: Maplewood was home to racism and white supremacy, and our repeated decisions to run away from critical conversations about white supremacy were only leading us further from truth and reconciliation. Thankfully the veneers Maplewood put on when “called out” for its perpetuation of white supremacy were never bright enough to convince my family that we lived in a post-racial, idyllic community. Despite the presence of lawn signs and street banners proclaiming disapproval of racism, my mother said that “like the air running through an HVAC system in a building,” it (white supremacy) was being inhaled by *everyone* in the community.

Whether the police are called to my house by our white neighbor or a negative classroom experience led to the filing of a legal complaint on my family's behalf, Black people, throughout their lives, pay a tax in America that, at its core, reflects the lack of respect for Black humanity originally demonstrated by our nation's “founders.” My family's experience may not be the experience of *all* Black families that live in predominantly white neighborhoods, but as my father reminded me, racism is in the DNA of the country and since it is a tax often levied unjustly by white America on

Black America, it is white America's burden to bear. He left me with the following thoughts: until we tell the truth about race in America, Black Americans will continue to live in a country that forces us to fight, and Black people experiencing early death and chronic illness simply reflects the accumulated effect of that reality. We must break the cycle, prioritize Black well-being, and close the gap between the quality of life afforded to white and Black Americans.

IV. CONCLUSION

As a society, we are subconsciously taught to understand Blackness as a burden that must be overcome to achieve success. This is the reality for many Black homeowners who choose to purchase homes in white communities. They will be expected to pay the invisible tax—that is to say, to yield to the standard of whiteness—in exchange for the opportunity to live in a community where they have the best chance at building wealth. In communities like Maplewood, Black families, like my own, might leave with money in the bank when they sell their homes, but they might also leave questioning whether or not the stress they endured from living in a town where they were subjected to years of racism was truly worth it. The calculation of this opportunity cost is going to be different for every Black homeowner. Some will be able to “afford” or be willing to pay the cost of these emotionally taxing experiences; conversely, others might be able to afford the down payment, mortgage, and financial property taxes on a home, but the additional emotional tax might be too high a cost to bear, rendering the home unaffordable.

My family's story, again while not unique, exemplifies how the cost of owning a home in a community where it is most likely to create wealth is much steeper than any of us are led to believe and, like the century-old colonial home my parents bought in Maplewood in 1997, with time comes additional costs. It bears repeating that my family was not alone in shouldering this tax burden. Data reflects that as of 2020, 54% percent of Black people live in suburbs,¹³⁶ so these additional costs are being

¹³⁶ William H. Frey, *Today's Suburbs Are Symbolic of America's Rising Diversity: A 2020 Census Portrait*, BROOKINGS (June 15, 2022), <https://www.brookings.edu/articles/todays-suburbs-are-symbolic-of-americas-rising-diversity-a-2020-census-portrait>.

experienced by more of us now than in 1997. Knowing this to be true, we must end the practice of asking Black people to saddle themselves with unnecessary burdens in the hope of unguaranteed payoffs. The only thing we are guaranteeing by encouraging Black people to prioritize wealth-building homeownership, over homeownership that maximizes well-being, is the emotional tax associated with the burden America tries to place on Blackness.

