



THE ADOPTION AND ABOLITION OF THE LOCAL DEVELOPMENT EXACTION SYSTEM BY THE CITY OF YOKOHAMA

Toshio Taguchi

*PhD in Town Planning, Akira Tamura Memorial - A Town Planning Research Initiative NPO,
taggame@jcom.home.ne.jp*

This thesis intends to explore the rationale behind the adoption and abolition of Yokohama's local development exaction system ("LDE system"). LDE systems were independently and locally formulated by local governments in response to challenges they faced across Japan, and Yokohama provides a leading example of a functional LDE system pursuant to which land developers were required to donate land for public use as a condition of their receiving development approval from the city government. Ichio Asukata, the socialist mayor at the time of the LDE system's introduction, invited Akira Tamura, a planner, to the city administration to solve the town planning issues. Japan's new Town Planning Act of 1968 did not contain provisions authorising the exaction of land. Therefore, Yokohama became the first large city to adopt an LDE system in 1968. The LDE system was used as an administrative guideline which ran the risk of legal challenge by affected developers. After Asukata's term in office, a succession of conservative mayors narrowed and reduced the obligations imposed under the LDE system and finally ended its use in 2004. This study presents some idea of how local initiatives can be implemented independently by local governments in a highly constrained fiscal environment without any support from the central government.

Keywords: Development agreements by developers, Autonomy of local governments and their initiatives, Planning and coordination by planners within city administration

1. Pre-history of the Local Development Exaction system

1-1. Position of Thesis

The objective of this thesis is to aggregate and critically evaluate the evolution of the local development exaction system ("LDE system"), which was for a time widely implemented across Japan by local governments¹ as a means of negotiating with private housing developers. Development exaction refers to the donation of land for community facilities and/or the payment of impact fees to establish the infrastructure necessary to support that development. At the time of its conception, municipalities were severely affected by their lack of development control powers and were experiencing financial hardship due to the inappropriate allocation of planning powers² and financial resources from the central government³.

The LDE system was unusual in the context of post-war Japan,⁴ because it was established without endorsement from central government.⁵ The nature of the relationship between local municipalities and central government is disputable: it is officially regarded as an equal partnership, but regarded by many as deeply hierarchical. The legislative process by the central government tends to be delayed and often fails to respond to the needs of local municipalities in a timely manner. This situation, in turn, leads local municipalities to react to urban problems to accommodate citizen's needs even when they lack the necessary legal or financial power vested in them.⁶ This kind of citizen-centred governance taken by administrations is referred to herein as "local initiatives". On one hand, Japanese local governments must act within the national legal framework and obey orders issued from the central government. However, as this framework often contains its own loopholes, some local governments have used their own initiative to find or create some means outside the national legal framework in order to secure and advance citizens' welfare.

The city of Yokohama in the vicinity of the Tokyo metropolitan area is one such example, having been greatly affected by unplanned housing developments. Ichio Asukata, the incoming socialist mayor who had defeated the conservative candidate only narrowly in 1963,⁷ outlined a plan to tackle urban problems and resolve them for citizens, although he could not receive any support from the central government because of his socialist



background.⁸ Asukata named this reformist type of approach “local initiatives without consent [given from the central government]”, which represented a new approach to conducting local administration. Asukata wanted to cultivate a new citizens’ movement from a local up to national level. To achieve this, he needed an able planner with professional integrity, and persuaded Akira Tamura,⁹ a renowned town planner, to join the Yokohama city planning administration in order to implement citizen-centred town planning.¹⁰



Figure 1: Site map of new housing development at Sakaigi-cho (3.7 hectares of site, planning permission obtained in 1971), Hodogaya ward, Yokohama, with a municipal nursery school on the left, situated on land obtained for community facilities from the developer by LDE system. Source: public information disclosure from the Bureau of Building Control, City of Yokohama

As Yokohama was one of a few specially designated large cities, it was vested with the legal power to permit development applications according to the Town Planning Law 1968,¹¹ an amended version of the 1919 law.¹² Against this background, when negotiating with developers in connection with their development applications, the city administration avoided giving the impression that development exactions would be sought as a legal precondition to making a formal application for development permission. Instead, the city made its own internal rules known to developers as the LDE system. Rather than demanding exactions as part of legal procedures, the city negotiated with developers to reach development agreements, in other words seeking “exactions by agreement”. As precedents to this new form of development agreement, the city signed a unique contract to protect the environment with energy companies which had sought permission to transfer land back to its original land owner, the city of Yokohama, in accordance with a basic agreement signed by both parties, but had to accept a measure to reduce pollutants generated from their power plants in order to exercise their right under the basic agreement. The city had also reached an exaction agreement with Tokyu Railway Company on its enormous housing development in a suburb of Yokohama. From the middle of the 1960s, LDE systems began being introduced all over Japan as a kind of symbol of local initiatives.¹³

Among research papers concerned with LDE systems around Japan, Akira Tamura, who formulated Yokohama’s LDE system in 1968 and managed its operation as the head of the city’s planning office for the next ten years in Yokohama, went on to publish his Ph.D thesis on the subject at Tokyo University. However, apart from Tamura’s work, no other scholars have conducted objective or evidence-based research¹⁴ on Yokohama’s LDE system. Whenever the city administration wishes to establish an important policy, it usually had to formulate a policy-decision paper called a “Municipal policy formulation paper”: the draft is prepared by a junior officer and must later be signed by concerned senior officials and finally the mayor. These policy papers are preserved in



perpetuity by the Public Documents Preservation By-law and are available to the public through the Municipal Information Disclosure By-law. Supplementary documents are frequently appended to these papers, explaining the detailed background and the reasons surrounding the issue under discussion. I have also conducted interviews with concerned retired senior officials¹⁵ of Yokohama city in order to locate appropriate official documents by using their comments as guidelines for document hunting.

1-2. Housing development by Tokyu Railway Company and its development exaction agreement

A huge housing development proposal by Tokyu Railway Company (“TRC”)¹⁶ in suburban Yokohama prompted a move to consider development exactions by local municipalities. Keita Goto, president of TRC, had returned to his old company after a short period of public exile from his official position that had been terminated in 1951.¹⁷ Goto made a new proposal for a housing development in the southwest of the Tokyo region,¹⁸ which covered a large suburban area of Yokohama.

Goto’s proposal was to construct a large-scale housing development along the newly extended railway line connecting Tokyu’s existing line with a station on the Odakyu railway line in the middle of Kanagawa prefecture, which ran through Yokohama. Then the Capital Metropolitan Redevelopment Law was enacted in 1956 by the central government. A new planning control measure to designate the suburban area as a green belt encircling the built-up areas was conceived in order to restrict unplanned expansion of Tokyo. Beyond the green belt, satellite cities with new housing developments were also allowed. It soon became clear that Goto’s proposal fell entirely within the restricted green belt area running between 15 kilometres and 25 kilometres in radius from central Tokyo. In response, Goto prepared a counter-proposal to build a new town on the southwest along the Tama River, which divides Tokyo and Kanagawa. He also proposed a toll motorway plan¹⁹ along which a new housing development was envisaged in parallel with the new railway line. As a result, Goto’s challenge finally succeeded, in that the central government allowed an exception for development within the green belt area, which was a planned housing development within a one kilometre in radius from the nearest train station. In 1960, Goto received official permission to construct his new railway line from Mizonoguchi to Chuurinkan that he had originally applied for. Goto and his company began construction of the new town for a planned 300,000 residents on 2,000 hectares of land, mostly within the city area of Yokohama.

One of the most significant community issues arising from the TRC development was the provision of schools, since they would be necessary facilities for the new residents. According to the Basic Act on Education, all municipalities are responsible for providing opportunities for all residents’ pupils to attend compulsory education at primary and secondary schools. Asukata, the mayor of Yokohama, expressed strong reservations at the negotiations with TRC about telling new residents that the city would not accept new enrolments for existing schools, which had no room to accept new pupils.²⁰ At the 1968 meeting between Asukata and Noboru Goto, son of Keita Goto and the new president of TRC, an agreement was reached to provide the land for nine schools. Asukata wanted to utilise TRC’s model of development exactions to apply all over Yokohama.

2. Genesis of Local Development Exaction system as an independent planning tool by local government

2-1. Fight on five issues by Asukata and Tamura

Despite a rapid population increase accommodated by new housing developments, the new tax revenue accompanying it did not match the costs required to respond by installing new community facilities and infrastructure. During the period from the late 1960s until the mid-1970s, the population of Yokohama was increasing by one hundred thousand annually.²¹ From 1968 until 1973 the increase in the number of pupils was similarly enormous in number: seventy thousand primary students and twenty thousand junior high students annually, which required an additional 47 primary schools and 15 junior high schools to be constructed. As the annual municipal budget²² of 1974 was 253.4 billion yen with 45.6 billion yen allocated for educational expenses, seventy percent of educational expenditure was used purely to construct educational facilities. In 1972 Asukata and Tamura²³ pledged to fight on “five issues caused by the rapid population increase”: environmental pollution, refuse dumping, traffic management, water resource, and exaction of public land. As such, the city had to respond by constructing basic amenities.²⁴



2-2. Designation of urbanised and non-urbanised areas by the newly revised Town Planning Law

According to the Town Planning Act 1968, town planning districts²⁵ are divided into two categories: urbanised areas, in which development is promoted, and non-urbanised areas, in which development is halted for more than a decade. If and when an applicant wants to develop land, he/she has to apply concerned local administration for permission to start development activities. Within urbanised areas, any development of more than 0.1 hectares in size is controlled. Although development in non-urbanised areas is generally prohibited, there is an exemption whereby well-planned housing developments that are larger than 20 hectares can be allowed.

The policy towards the use of the urbanised area designation, according to the advisory report to the Yokohama city planning committee in 1970 supervised by Tamura, reads: "Local administration is required to assume a large burden of political and administrative responsibility when making plans for urban facilities and infrastructure. Therefore, it would not be appropriate to expand urbanised areas too much without any possibility of accomplishing the necessary infrastructure within ten years. An area that is capable of being urbanised in the future should be preserved as a non-urbanised area for a while and then gradually be urbanised with planned development". Within non-urbanised areas, development is as a general rule not permitted for a period and is only possible subject to onerous controls, the report noting: "The notion of having non-urbanised areas has not only the restrictive goal to limit sprawl developments but also the positive goal of preserving these areas for future planned large-scale developments". Even areas affected by unplanned developments should be designated and preserved as non-urbanised areas until specific measures such as land readjustment schemes could be implemented in the future. The final proposal by the Yokohama city planning committee concluded that there would be 12,640 hectares designated non-urbanised area in size, accounting for 30.3% of the whole city area, which, through final negotiations with concerned bodies, was reduced to 10,673 hectares, being 25.6% of whole city area.²⁶ This ensured that, when granting planning permission to change these zones to urbanised areas for the initiation of development in the future, the city could demand greater public contributions from developers, such as the preservation of extra open space for the use of public in addition to the normal requirements under the LDE system.²⁷

3. Process of adoption and abolition of LDE system in Yokohama

3-1. Adoption in 1968 and abolition in 2004

According to the LDE system as adopted in 1968, development is defined as any kind of modification over its land in terms of shape and/or topography for the purpose of construction, and all development, irrespective of its size, is required to follow the LDE system. Exaction of land for public uses is the main theme of the LDE system and falls into two categories: exactions to fulfil a "park obligation" and a "community obligation". Roads, sewerage, drainage, and flood ponds constructed by the developer are transferred to the municipality. Public developers are required to donate land for parks equivalent to more than 4% of its development area, and private developers more than 3%, not less than 150 square meters in size. Land provided to house community facilities must be more than 5% of the whole development area, and the price paid to the developer, albeit only a nominal fee, is fixed at 3,000 yen per square meter for land within that 5%. If and when construction of public utilities outside the development area is necessary, additional construction should be done by the concerned developer.

After a 1972 revision, "development" subject to the LDE system was classified as anything exceeding 0.1 hectares. Density controls were introduced: assuming there would be 4.0 residents per freestanding house, and 3.5 residents per apartment unit. The park obligation was strengthened to require an allocation of at least 3 square meters per planned resident (applicable when this would deliver more than the existing 3% -- 4% exaction), and the community obligation was enlarged to require an additional exaction of .5% of the development area for every 30 residents per hectare (5% of the development area up to 150 residents per hectare)."

After Asukata's departure in 1978, ten years after the LDE system's introduction, a new mayor, Michikazu Saigo, assumed office. He had started his career at the old Ministry of Interior before the war and became the Administrative Deputy Minister of Ministry of Home Affairs after the war. Some provisions of the LDE system were changed in 1980: developments of less than 0.3 hectares, if and when they could not provide a full-sized park of 150 square meters in size, could instead donate the land exacted to fulfil the park obligation to its land for community facilities. Moreover, the community obligation was changed so that, if and when a developer did



not have available land for community use on its development site, the developer could instead purchase part of the land owned by a municipally affiliated land corporation which was legally authorized to buy land in advance for future municipal unspecified uses by a fund borrowing from the banks on normal market interest rates, not from municipal tax revenue, and then sell the land to the city at a nominal fee. Although this method was practical financially, the nexus between development sites and the land targeted by exaction obligations became unclear. In 1984, Saigo made a further fundamental modification to the structure of the LDE system. Any development of less than 0.3 hectares in size and with fewer than a hundred planned residents was allowed to donate 34,000 yen per resident to the Yokohama Municipal Green Foundation²⁸ in lieu of park land. This change caused a further weakening of the nexus between exaction and development sites, because expenses contributed by developers would be used for forest preservation at a different site.

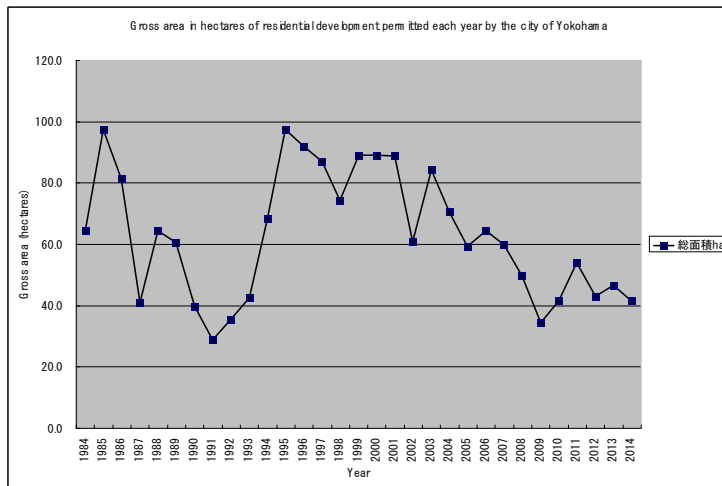


Figure 2: Chart of fluctuation of residential developments since 1984 by total development permitted area. Gross area in hectares of residential development permitted each year by the city of Yokohama. Source: Data from Yokohama’s municipal architectural department, which was in charge of development permission, began being properly recorded and preserved after 1984 to a standard usable for detailed research work.

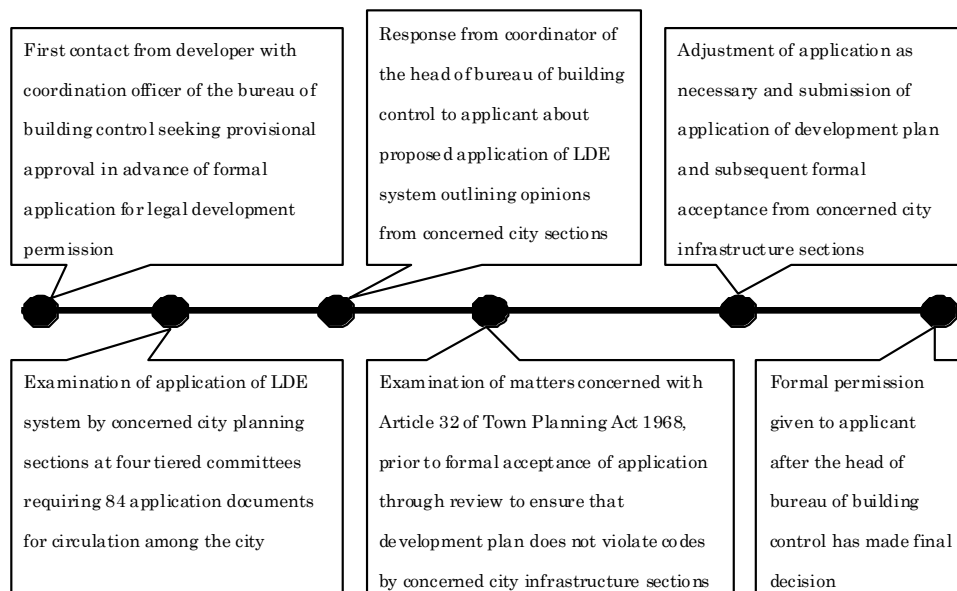


Figure 3: Flow of LDE system application and subsequent formal planning permission

Saigo died in 1990 during his term as mayor. Hidenobu Takahide, his successor, was born in Hokkaido and had become the Administrative Deputy Minister of Ministry of Construction after a career as a technocrat in the civil engineering field. However, the Ministry of Construction was a vanguard against the LDE system. In 1995, Takahide set up a special committee to review the LDE system. The committee determined that the objective of



providing school sites by exaction would be terminated despite praising the impact of the LDE system on the city budget. Regarding the park obligation, it was relaxed to require donation of less than 6% of the whole development area, whereas it had previously been calculated as more than 3% of whole area or 3 square meters per planned resident (whichever was larger).

LDE system of Yokohama	1968	1972	1980	1984	1995	2004
	Adoption	First revision	Second revision	Third revision	Fourth revision	Final revision/abolition
	Mayor Ichio Asukata	Mayor Ichio Asukata	Mayor Michikazu Saigo	Mayor Michikazu Saigo	Mayor Hidenobu Takahide	Mayor Hiroshi Nakata
Developments affected by LDE system (by size)	All residential and non-residential developments	Larger than 0.1 hectares and planned population density of more than 150 people per hectare	Larger than 0.1 hectares and planned population density of more than 150 people per hectare	Larger than 0.1 hectares and planned population density of more than 150 people per hectare	Larger than 0.3 hectares, no planned density metric	LDE system abolished, new city by-law restricting only technical matters without land exaction obligations
Required land contribution for parks ("park obligation") applicable to urbanised and non-urbanised areas	More than 4% of development area for public developers or 3% for private developers, minimum contribution of 150m ² (if calculation would otherwise amount to less)	Revised to add density restriction: more than 3m ² per person and more than 3% for private developer (4% for public developer) of development area, minimum contribution of 150m ² (if calculation would otherwise amount to less)	Any development less than 0.3 hectares can combine its community obligation land into a park lot of 150m ² or planting space in lieu	In the case of a development area less than 0.3 hectares, where there are more than 100 planned residents it triggers the park obligation, where there are less than 100 residents a donation to the city forest fund of 34,000 yen per planned resident can be made. If the park obligation amounts to less than 300m ² of a development area less than 0.3 hectares, payment to city forest fund should be made in lieu of land contribution	Only applied to housing developments, where the maximum contribution would be less than 6% of development area, donation to city forest fund not required. If park obligation area less than 150m ² , developer may contribute planted space or plaza in lieu of park	Within requirements of the Town Planning Act 1968, where a park would amount to more than 150m ² on a development area from 0.3 to 5 hectares. A development of less than 0.3ha requires planted space which is owned by the private owner, and is not a public park
Required land contribution for community facilities ("community obligation") applicable to urbanised and non-urbanised areas	More than 5% of development area, minimum contribution of 150m ² (if calculation would otherwise amount to less)	Housing development up to 150 residents per hectare provides 5% of development area, if planned density exceeds 30 residents per hectare, add 0.5%. Non-residential developments required to contribute 2% of development area. If this would amount to less than 150m ² , supplement to contribute a minimum of 150m ²	If community obligation less than 150m ² , land for community facilities can be used for park land	Non-residential developments contributing to progress of entrepreneurship can be exempted. Maximum land for community facilities can be used for community uses such as garbage depots or bicycle stands: 300m ² for less than 0.3ha of development area, 250m ² for 0.3-0.4ha, 200m ² for 0.4-0.5ha, 150m ² for more than 0.5ha. Within non-urbanised areas enterprise and/or educational-cultural developments can be exempted from park and community obligations	Community obligation to be applied to developments of more than 1 hectare, 3% of development area for residential developments only. Community obligation land not to be used for other substitute uses originated from outside development area	Community obligation to be applied to developments of more than 3 hectares and/or 500 unit apartment housing developments, and to be negotiated with city treasury bureau by a standard of 3% of development area and a land price of 25,000yen per m ²
Other infrastructure installation obligations	Roads, sewerage, flood water ponds within the development site and beyond the site if necessary are built by the developer	As shown on the left	As shown on the left	As shown on the left	As shown on the left	As shown on the left

Figure 4: Chronological list of amendments of local development exaction system

The original vision of the LDE system was fatally undermined and it was tailored to follow the minimum standards of the national town planning law. Land donations for community facilities were reduced to require land donations only for housing developments more than one hectare in size, and equivalent only to 3% of its whole site. Takahide effectively began the process of dismantling the LDE system. At the same time, the central government decided on a new deregulation policy in 1995, the Ministry of Construction issuing a notification commenting that it was the sole responsibility of local governments to provide community facilities on any developments less than 20 hectares in size.

Hiroshi Nakata, a relatively young and liberal politician having been educated at the Matsushita Institute of Government and Management, and who had resigned as a member of the Diet, defeated Takahide at mayoral election in 2002. Although Japan was facing economic stagnation, Nakata made an irrational decision to abolish the LDE system. A new development control by-law strictly based on the national Town Planning Act was introduced in 2004, which effectively replaced Yokohama's LDE system. The development control by-law enacted by the municipal assembly merely set standards as to the technological aspects of construction, and did not contain provision for exaction.

3-2. Evaluation of the LDE system

By the end of the 1993 fiscal year, the total amount of land exacted for community facilities was 307 hectares since the inception of the LDE system in 1968, of which 210 hectares had been used for municipal primary and secondary schools.²⁹ It had provided the sites for 150 schools, which accounted for 60% of the 258 total municipal schools opened in Yokohama since 1968. This shows how important the LDE system was to the provision of educational facilities in Yokohama city.



A further 65 hectares of exacted land was used for other community facilities: nursery schools, local fire stations, and citizen-use facilities, which complied with the original objectives set by the LDE system. However, the remaining 30 hectares was used for resettlement caused by public infrastructure projects which had nothing to do with the original development and its exaction, which posed a problem from a viewpoint of having no direct nexus between the development exaction and the eventual use the land was put to. The value of land acquired to build community facilities from the inception of the LDE system had amounted to 384.6 billion yen by the end of 1993.³⁰

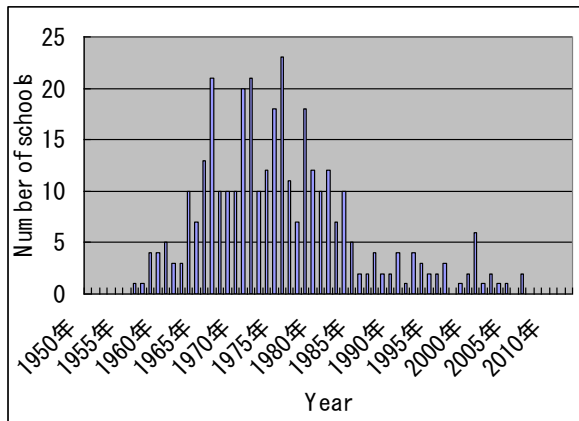


Figure 5: Chart of annual completed construction of Yokohama municipal primary schools. Source: Municipal statistics of Yokohama city 2013

3-3. Integrated planning and coordination method

In 1968, the city of Yokohama established a Supreme Coordination Committee of Urban Issues, whose chairman was mayor Asukata, and which was supported and administered by Tamura of the Planning and Coordination Bureau (“PACB”).³¹ At the committee many subjects concerned with city administration were discussed: the acquisition of public-use land on a large scale, and the policy regarding large-scale developments. The PACB directed by Tamura³² was a special piece of administrative machinery to coordinate sections of city administration horizontally in order to consolidate them into a unified local administration.³³

The effectiveness of the LDE system is attributable to Tamura implementing other control measures in tandem with the LDE system and using them in an integrated way. Designation of urbanised and non-urbanised areas as a tool of development control was strategically carried out. In 1973, the school planning section of the municipal educational committee formulated a “Guideline for apartment housing development” which was used to prevent new housing developments being initiated in areas with a limited capacity of public schools. They designated areas of high primary school enrolment which postponed new housing developments for a period and introduced a prerequisite to obtain permission from the school planning section.

Another innovative control measure introduced by Tamura was a “Special zoning code restricting volume of residential use”, a tactic used to set a limit residential use as a ratio of commercial and/or business districts.³⁴ The Japanese zoning code at a national level defines possible uses in each zone, but an owner of land can use the whole of its property for residential use even in the middle of a commercial and/or business district. After Tamura left office, his restrictive zoning code was immediately abolished and consequently high-rise residential towers started to appear in the middle of Yokohama’s central business district.

3-4. Mounting pressure for relaxation and abolition from the central government

Among lawsuits regarding LDE systems are two widely known cases between local applicants and the Musashino city government: the first law suit³⁵ demanded that Musashino city refund the exaction fees negotiated for an educational facility from an owner/developer of apartment housing, and the second lawsuit³⁶ demanded that Musashino city supply tap water to apartment housing built by a local developer. Musashino city



lost both cases because the court characterised the actions of the municipality as a forced donation, and that its threat to stop the supply of water was not usual exaction by agreement, and moreover an excessive use of administrative force. These verdicts in turn meant that local governments became overly timid in their use of LDE systems.

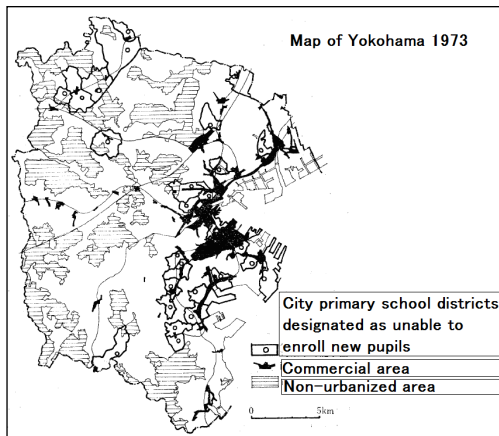


Figure 6: City primary school districts designated as unable to enroll new pupils and non-urbanised areas in the city of Yokohama as of February 1973. Source: Atsushi Naito, *Activity volume v. Facility volume-Challenge to special zoning restricting volume of residential use*, Bibliography 7)

Pressure from the central government to relax or abolish the LDE system gradually increased. Orders issued from both the ministries of construction and home affairs demanded that local governments using LDE mechanisms for exaction be more transparent with developers and citizens alike. It took several decades until the final abolition of the LDE system, since the central government could not prepare other effective measures to control developments in lieu of the LDE system. Finally, in 2003 the Ministry of Internal Affairs³⁷ and the Ministry of Construction and Transport³⁸ issued an ultimatum to local governments to review LDE system as soon as possible, which reflected that developers' tolerance for exaction had been declining due to a sharp decline in land prices. This order brought about the end of LDE systems all over Japan, including in Yokohama.

4. Conclusion

Although the majority of Japanese local governments lost their confidence in local initiatives using the LDE system, some other countries³⁹ still retain similar systems to the Japanese LDE and even Japan has an extraordinary exception still operating in downtown Tokyo. Many high-rise residential towers began to appear in water-front area of Tokyo's Koto ward, where the construction of business and commercial developments accelerated to make it a sub-centre of the Tokyo Metropolis. There soon emerged a shortage of school facilities for pupils of high-rise towers. Koto ward is such a high density area that it lacks suitable school sites. In 2002, the ward government enacted its own by-law which requires housing developers to attend negotiations, and at the same time made an LDE system which requires developers to pay 1.25 million yen per residential unit as an impact fee for community facilities. Until now, no objection has been raised by the central government.

Disproportionality in terms of population demographics exist in Yokohama⁴⁰ between districts neighbouring Tokyo and those further away from Tokyo. When, in 2016, it became necessary in Kohoku district (one of Yokohama's outlying areas) to build a new primary school,⁴¹ municipal expenses were allocated. This budget consisted mainly of municipal tax revenue, with nothing derived from local exaction fees.⁴²

Asukata and Tamura framed the LDE system as a new planning tool correlating to environmental impact fees. To this day, there is no national regulation providing for development exactions. Even if local administration needs support from the central government in order to fund infrastructure related to development, there are no reliable channels to obtain such support. It can be said that there are two kinds of responses to this situation: one is to react independently and courageously to local issues, and the other is to wait for help patiently. The happiness of citizens is greatly dependent upon these reactions. Therefore, it is significant that Asukata and Tamura independently formulated a local response which lasted for almost forty years despite incessant demands



for reform from the central government. Their achievement is worthy of significant praise both from planners and citizens alike.

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No potential conflict of interest was reported by the author.

Notes on contributor



Toshio Taguchi (b. 1952) is an independent scholar working with his research peers in order to aggregate historical data about the modern town planning of Yokohama and provide young scholars and citizens access to archival information. He studied Urban Design in England and met Akira Tamura, an eminent urban planner who remodelled Yokohama. During his early career as a municipal urban designer, he co-organized a voluntary study group of young city government workers. He believes a progressive and inquisitive approach by workers is a necessity when creating independent local initiatives in the course of town-making.

Endnotes

¹ Before Yokohama, both the cities of Kawasaki and Kawanishi had LDE systems, by 1975, they had expanded to 796 municipalities, and reached their zenith of popularity in 1997, when 1,598 municipalities had such systems, accounting for 50% of all municipalities in Japan. Source: The Ministry of Construction, *Yearly statistics of 1997*.

² In general terms, pre-war Japan lagged far behind its Western counterparts in relation to town planning, although it tried very hard to catch up as part of a drive for modernisation. Masao Kanbe, a professor of Kyoto Imperial University, proposed early in 1912 a new land tax legislation based on the English “Betterment” system. The UK’s Housing and Town Planning Act, a world first, was enacted in 1909, which speaks to the public consciousness of town planning issues at that time. However, Kanbe could not get approval for reform from members of the imperial assembly. Instead of that legislation, a form of “user pays” was introduced into the Japanese Town Planning Act 1919. To this day, Article 75 of the Town Planning Law 1968 allows for a form of “user pays” land use, as in principle a beneficiary of land development may be required to pay, namely: “if a person receives a substantial benefit from a public town planning project, central government, prefecture governments and municipalities are vested with the power to require the beneficiary to meet a part of the project costs according to scale of the benefit it receives”. This provision can be used to require property owners in the vicinity of an infrastructure construction site who expect to realise a great benefit from the construction of infrastructure to pay an appropriate portion of its cost. An equivalent provision had existed in Article 6 of the Town Planning Act 1919 which shared the same rationale with its English counterpart in the Housing and Town Planning Act 1909. Japan had applied this provision to a local project in the Osaka construction of the Midosuji boulevard and underground train system in the 1920s by mayor Hajime Seki. The city of Osaka charged landowners along the boulevard for the improvement, however it took decades to recover the costs and left a shortfall in the betterment revenue. Despite the availability of this special provision, land prices in Japan do not reflect the progress of local infrastructure. A housing development that lacks appropriate infrastructure in its vicinity can even be permitted according to the basic building code, with the construction of infrastructure expected to catch up. Due to a lack of public awareness towards environmental improvement, benefits produced by public projects have never been properly assessed.

³ From the post-war reconstruction through Japan’s initial stage of high economic expansion, its central government had promoted housing developments for middle class households in the form of single houses built by private developers and collective housing constructed by public developers. Therefore, the central government was loathe to encourage development controls which would have the effect of tightening the regulatory framework around housing developments.

⁴ The LDE system was a special concept adopted by local governments as an independent local procedure in the absence of central government regulation. The idea was conceived by local leaders, i.e., especially mayors of municipalities in the suburbs of major cities, in order to respond to an influx of new residents and the accompanying need to provide community facilities and infrastructure.

⁵ When Tamura was subsequently summoned to a meeting in 1968 by a high-ranking official of the Ministry of Construction who saw introduction of LDE system an affront that went well beyond the national legal framework, Tamura responded that provisions introduced through the LDE system should have been authorised by national policy and regulations and, for the time being until central government could address those issues, the local government would respond to those issues on behalf of the national government. Tamura conveyed a strong independent stance of local government despite central government opposition.

⁶ The central government introduced a new local tax in 1969 by amending the Local Tax Law, namely “housing development tax”, which has never been used by any local government at all. This tax can theoretically be applied to an area designated by the municipality only within an “urbanised area”. Exaction for installation of new infrastructure at new housing developments is limited to roads of less than 12 meters in width, drainage except for public sewage systems, and parks or pedestrian courts of less than 0.5 hectares. The applicable tax rate is to be fixed by municipal by-law according to degree of benefit. When implementing the tax system, a municipality is required to notify the Minister of Home Affairs for accreditation. This tax seems extremely rigid, which perhaps accounts for its poor (non-existent) uptake in comparison to the LDE system.

⁷ Japan was an undemocratic and overly centralised country prior to World War II. Local political and administrative systems were established according to the doctrines fixated on empire-building, which underlie Japan’s initiation of expansionist warfare and the reason it could not be stopped before widespread devastation occurred. The Ministry of Interior was a stronghold of ruling bureaucrats governing local administration, infrastructure construction, policing, welfare, and the Shinto national religion. All prefectural governors and major municipal mayors were appointed by this Ministry from a shortlist of its top elites, and never elected by citizens. Therefore, the American occupation forces decided to dismantle this organisation with a firm determination to create a democratic Japan. Democracy and decentralisation became two keywords for post-war Japan. Political proponents of socialist ideas appeared after the war from outlaw status during and before the war, though only the first government in the immediate wake of the war, when defeated Japan was in turmoil, was led by a socialist. Old conservatives tried to secure their stronghold against the political actions of socialists. Against this background, Asukata came to local politics in Yokohama city after a career in the national legislature, with a belief that he could change Japan through local government in Yokohama as a mayor together with local people.

⁸ When accepting democracy into defeated Japan, the central government chose a cabinet system in order to sustain its imperial family as head of state. On the other hand, local government is managed directly by the elected mayor. Although local politicians are also directly elected by citizens, local administration is generally directed by the leadership of the mayor. However, mayoral candidates tend to be appointed and funded by a relatively small group of conservative older politicians. This means that post-war local assemblies were neither active for citizens nor progressive in terms of new ideas. Despite the strong conservatism of the political and business community, local autonomy was formally authorised in the new constitution. However, the local administrative system continued to be seen as a branch of the central government, because local politicians proclaimed the importance of close relationships with the central government.



⁹ Tamura was a person who understood perfectly the structure of national ministries and their motivations, and also their limitations, because he had worked for a ministry after his graduation from university. He then moved to the real estate section of the Nihon life insurance corporation which gave him a clear perspective on real estate business and a developer's logic. Another remarkable aspect of Tamura's career was that in 1963 he joined the first private planning consultancy in Japan that had been established by Takashi Asada, producer of the Metabolism Group and manager of the globally renowned architect Kenzo Tange. His well-known consultancy experiences included contributing to several large-scale projects across Japan commissioned from national agencies or local governments. His approach to planning displayed a strong desire for a wider perspective on society, and was never parochial or limited exclusively to the needs of just a local area, but combined ideas from drawn from other countries. When thinking locally, Tamura acted at the same time globally.

¹⁰ In 1964 Asukata requested that Tamura, as an able town planner belonged to a planning consultancy office, propose a comprehensive plan to remodel the urban structure of Yokohama known as the "Six Spine Projects". Based on that work, Asukata had come to trust Tamura, and in 1968 he offered Tamura a post within city management to let him expand his role as the chief planner rather than just as a consultant outside the city's machinery. In 1973, Tamura as chief planner proposed the concept of municipal general hospitals based on private-public partnership: the city bought sites for planned general hospitals and subsidised part of the construction fees for private medical institutions that ran hospitals public use.

¹¹ The Town Planning Act was fundamentally revised in 1968 as a consequence of the advisory report in 1967 of the Land Control Committee of the Construction Ministry.

¹² Nothing had changed in the town planning system of Japan since the pre-war era. The antiquated and overly centralised Town Planning Law enacted in 1919, that had preceded the 1923 Great Kanto Earthquake, continued to be used even after the war. This law was finally and fundamentally revised in 1968 to initiate development control measures and also introduce democratic processes into law enforcement. This came nearly fifty years after the enactment of the law in 1919 and more than twenty three years after the war.

¹³ Eventually, during the early 2000s most LDE systems were abolished because of mounting pressure from the central government. Although Yokohama was a leading example of a successful LDE system, Yokohama's LDE system was likewise abolished in 2004.

¹⁴ In approaching this research, I assumed that to conduct meaningful research on the process of decision making at local municipalities would be difficult, both because of a lack of evidence available and because public servants must obey codes of conduct that prohibit them from speaking about confidential information which they have come to know in the course of their duties.

¹⁵ Although nearly 40 years have passed since Tamura left the city in 1981, many such retired city officials still boast of old stories and their achievements, however these anecdotes are not suitable materials for an objective and scientific research approach when conducting historical analysis of LDE system of Yokohama.

¹⁶ The mother company of TRC was "the Garden City Company" established in 1918 by Eiichi Shibusawa, an eminent Japanese economist. The Garden City Company intended to build the a residential area in Tokyo's hinterlands modelled after Letchworth in Hertfordshire, and in 1923 started development in the current Denenchofu area, which has become one of Japan's most luxurious housing estates.

¹⁷ Local politics and administration went largely unchanged and did not adapt quickly to the American model of democracy. An embargo order (that had been issued in 1946 and 1947 by the Japanese government on the advice of the Allied occupation forces) on hiring persons who had been at the top tier of political and economic communities in the public services, who were regarded as having taken part in the war, ended several years earlier than anticipated. This was because either a shortage of able leaders or the start of Korean War necessitated their return to public service.

¹⁸ Once the restriction on immigration to the Tokyo area after the war was lifted in 1949, the greater Tokyo region started to expand.

¹⁹ The toll motorway project had relatively low construction and maintenance costs compared to the railway system, and was later directly implemented by the central government as the current "Daisan Keihin motorway."

²⁰ TRC initially responded with the view that given that the municipality provided public educational facilities, it would have its residents' pupils go to private schools owned by TRC.

²¹ An overall trend of housing development in Yokohama from 1968 until 2014 can be identified in the data regarding housing plots increase on municipal real-estate tax index. The housing plots within Yokohama city greatly increased from 10,705 hectares of 1968 when LDE system introduced until 15,397 hectares of 1978 when Asukata left the mayor's office. Throughout Michikazu Saigo's time, mayor after Asukata, the rate of housing plots increase gradually levelled out until Saigo died in 1990, Hidenobu Takahide succeeded the mayor's office. Since the latter half of Takahide's term until Hiroshi Nakata decided to abolish the LDE system, the housing development was stable in trend.

²² It may be useful to consider the trends in annual budgets, population figures of Yokohama city and the national economic yearly growth rates: 33 billion yen budget and 1.59 million population when Asukata first elected in 1963, 365 billion yen budget and 2.69 million population when he left the city in 1978, 994 billion yen budget and 3.19 million population in the last year of Mayor Saigo's term in 1989, and 1 trillion and 377 billion yen and 3.46 million population in the last year of Mayor Takahide. Finally, Yokohama had a 1 trillion 345 billion yen budget serving a population of 3.65 million population in the last year of Mayor Nakata's term in 2008. The economic growth annual rate was 9.1% from 1956 to 1973, 4.2% from 1974 to 1990, 0.9% from 1991 to 2012.

²³ A unique aspect of Asukata's approach to resource management was to extensively utilise the concept of private-public partnerships. Tamura explained that public expenditure should mainly be limited to being used for basic community necessities and that other major investment should be managed largely by private financial power with support from the city. As such, the LDE system should be viewed as a kind of private-public partnership activity. The dire financial position of the municipality was remedied by revenue raised through local development exactions. Although Asukata was a leading figure in the Japan Socialist Party, his use of public-private partnerships went far beyond their strict socialist doctrine.

²⁴ In 1973, Tamura as chief planner proposed the concept of municipal general hospitals based on private-public partnership: the city bought sites for planned general hospitals and subsidised part of the construction fees for private medical institutions that ran hospitals for public use.

²⁵ According to the Town Planning Act 1968, town planning districts are designated as the areas which have to be planned, developed, and preserved as a unified entity.

²⁶ It was widely said among the central government and business community, who did not share a desire to preserve the natural environment for citizens, that the whole of Yokohama should have been designated as an urbanised area due to its proximity to Tokyo and its high market value as a residential area.

²⁷ A good example of housing development in a non-urbanised area can be observed in one done by the Keihinkyuko railway company: Kamariya housing development in Kanazawa ward of Yokohama, only 26% of the whole area of 275 hectares, was changed into urbanised area, being developed for housing of 20,000 planned residents, and the rest of which remained as a non-urbanised area, and was used for



public facilities and parks. Its planning permission was initially obtained in 1973 then suspended because of company's economic difficulties until 1978 when it was again permitted by the city.

Source <http://www.keikyuu.co.jp/information/history/chronology/06.html>

²⁸ This foundation was set up in 1984 as an affiliated organization of the city with the objectives of community planting, forest preservation, and promotion of greenery awareness by citizens. As of 2001, it had received a total amount of 1.3 billion yen donated by developers.

²⁹ According to the city of Yokohama, "the Municipal policy formulation paper signed by the mayor regarding the LDE system in 1995."

³⁰ Although a monetary calculation did not appear in the policy paper in 1995, the amount of municipal benefit can be calculated by comparison with the 87.3 billion yen by the end of 1980 which was shown on the other municipal policy formulation paper in 1980 by the city of Yokohama. It is therefore assumed that through exactions, the city benefited by approximately 500 billion yen in total between 1968 and 2004 when the LDE system was finally abolished.

³¹ By the first review of the LDE system of 1972, the development control standing committee ("DCSC") administered by the Planning and Coordination Bureau, directed by Tamura, and development control executive committee ("DCEC") administered by development control section of Architectural Bureau had been established. The DCSC was in charge of large-scale and important development application which needed an executive decision from wider perspective of city administration, and the DCEC as concerned with regular applications.

³² The Planning and Coordination Section had initially been set up by mayor Asukata when Tamura entered the city administration. Although Tamura was the right person to become the head of the Bureau, Asukata placed a well-trained bureaucrat as its head and Tamura as the deputy head. Three years later, when the Planning and Coordination Section was expanded into the Bureau, Tamura became its head.

³³ Tamura named this style of management "independent integration."

³⁴ Although Yokohama has a long history as a trading port opened in 1859, Tokyo has always been the centre of Japan in terms of commercial and/or business activities. Yokohama is mainly used as a residential satellite to Tokyo, even if it has industrial and business districts of a limited size.

³⁵ In 1978 an owner of apartment housing sued the city of Musashino demanding the return of an educational impact fee already paid amounting to 15 million yen. The owner was concerned over the payment of the impact fee since the city abolished the system of impact fee immediately after he/she had paid it. The Supreme Court decided in 1993 that impact fees were not illegal so long as they were paid by agreement, however an impact fee being required as a prerequisite for administrative process of concerned development was deemed an illegal administrative act. Then the Supreme Court returned the case to the Tokyo District Court and two parties, the city of Musashino and the owner of apartment housing, settled the case by paying 23 million yen from the city to the owner. Source: The city of Musashino, *Hundred years' history of Musashino city*, pp. 1029-1038, 2011

³⁶ In 1978 Yamaki Construction Company, headquartered in Musashino city, sued the city of Musashino which had refused to supply municipal tap water to the apartment building which Yamaki had constructed and owned, because Yamaki had progressed the construction without gaining approval from its surrounding residents, which was a prerequisite of Musashino city's LDE system. The Supreme Court determined in 1989 that the refusal to supply municipal tap water was a last resort for the municipality as a measure to compel a concerned developer to obey the rule of LDE system, though the tap water was a basic necessity for residents of apartment housing and therefore the municipality had a responsibility to supply the water to any developments when requested to do. The final verdict was that the mayor of the city forfeited a penalty payment. Source: The city of Musashino, *Hundred years' history of Musashino city*, pp. 1029-1038, 2011

³⁷ The Ministry of Home Affairs was in charge of local government governance, having been allocated much of the responsibility of the enormously powerful pre-war Ministry of Interior.

³⁸ In 2001 as part of reorganization of national ministries, the Ministry of Construction and the Ministry of Transport were consolidated into the Ministry of Construction and Transport.

³⁹ Since early 1980s in the United States lawsuits between local governments and private developers in terms of development exactions have occurred frequently. When giving permission to developers, local governments have required a wide range of exaction such as impact fees for construction of infrastructure and appropriate layout of planned buildings including installation of footpaths or parks on the planned site. State governments gradually began to support local governments' independent efforts through passing State Enabling Acts for development agreements and impact fees. The fundamentals of these Acts derive from police power vested on States as an inherent duty to guard welfare and security of state people. On lawsuits in state and/or federal supreme courts, nexus, a strong relationship between causes and results is always essential. It should be noted that when the central government of Japan tightened pressure to local governments concerning LDE systems, they used rhetoric to justify relaxation of LDE systems by demanding the elimination of obstacles of non-tariff barriers from the U.S. federal government. However, both federal and state governments have supported local municipalities in terms of housing development control. Regarding the case of England, the Community Infrastructure Levy ("CIL") came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010, which is a planning charge introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. New housing developments which create net additional floor space of 100 square metres or more, or create a new dwelling, are potentially liable for the levy. This new levy was agreed parliament and introduced finally after a long history of trial and error on betterment recapture, following the Uthwatt committee of compensation and betterment in 1942. England had a well-thought rationale for its betterment concept even before Uthwatt, when the Housing and Town Planning Act 1909 proclaimed that local authorities may claim one-half of the increase in value of any property which is increased in value as a result of a town planning scheme. Local authorities in England could exercise discretionary planning power when bargaining with developers for community contributions such as the construction of community facilities or infrastructure. This kind of procedure had been long criticised by developers and land owners, therefore a new development planning regime was needed. The introduction of CIL has increased the certainty of development and was welcomed by developers, however there is a view concerned about the reduction of planning powers of local planning authorities.

⁴⁰ It is estimated that Yokohama city's population will continue to increase until 2019.

⁴¹ A new municipal primary school, for the purpose to sub-divide large enrolment of existing Hiyoshidai primary school in Kohoku ward, is now under construction and will be completed in 2020. This was caused by a large housing development of 5.6 hectares in site and the developer has sold the school site of 9,700 square meters to the city. The city spends 8.3 billion yen for acquisition of land and construction fee with the central government grant of only 760 million yen included.

⁴² There will be no financial allowance left for the reconstruction of existing urban infrastructure, because the social security expenses such as pensions have continued to expand exponentially.