

This chapter is organized in four parts. The first deals with an initial comparison between the LR and OUC instruments, permitting the verification of differences and similarities between both. The second part has a summary of a proposal for adapting LR concepts for implementing the Carandiru-Vila Maria Urban Operation project, demonstrating a practical exercise for better understanding the LR method. This project is being developed at Sempla as part of the plans for new joint urban operations foreseen in the Strategic Master Plan (PDE). The third part includes the description of the internal workshop called "Land Readjustment and Joint Urban Operations: urban instruments for urban development." Questions were also raised for discussion and the main points for reflection that resulted from points raised by the main debaters, were ranked. In the fourth part, we present testimony from specialists as a result of previously selected topics.

**Comparisons between LR and OUC**

After all, why compare land readjustment with joint urban operations? What is the interest in making this comparison? What is in play in both cases?

The opportunity for this study obviously emerged from the recent contact of Sempla urbanists with LR. But the greatest attraction point for the two instruments results from the vision of building and transforming the contemporary city through urbanism projects and not only through sectorial policies and zoning. Not all LR projects involve large urban transformations, but they all presuppose urban rearrangement from the principle of rationality and optimization of land use. Throughout the 1990s, the OUCs, as described in the general balance in Chapter 3, were dependent on the voluntary adherence of real estate developments, disarticulated from (nonexistent) urban projects, and public authorities were without more effective instruments to involve private capital in strategic urban interventions. Linking OUCs to the feasibility of urban projects becomes necessary and logical since these are strategic projects, as established in the PDE. In other words, if the OUCs experience demonstrated limited urban results, it is through clearly defined plans and projects that the public authorities expect to improve the OUC's performance as an urban development tool. Although public authorities have advanced in the evaluation and improvement of OUCs in São Paulo and although they see new perspectives with the urban operations foreseen in the PDE, a bigger step must be taken. We understand that City Hall must be supported by urban management techniques that permit greater power in promoting "land reform", going beyond induction for correction, beyond uncertainty to an improved technical and legal safety foundation in negotiations with private capital.

As described in Chapter 1 and demonstrated in Chapter 2, LR is recognized around the world as a powerful instrument in promoting land reform. For such, it legally demands and conditions the direct participation of landowners who make their lots available. Anywhere in the world, people do not want to put their heritage at stake in urban transformations where the players are the most varied public and private ones. Therefore, this system requires society to believe and trust in public institutions. The point of differentiation in relation to OUCs, and in general, to urban instruments in Brazil, results from the fact that the Statute of the City has instituted instruments that do not interfere directly in property rights, but that have the purpose of complying.

Comparative Table: Land readjustment and joint urban operations		
	Land readjustment <sup>1</sup>	Joint urban operation
<b>Instrument/mechanism</b>	Replotting <sup>2</sup> (Exchanging rights from one property to another)	Granting of urban incentives through legislation and obtaining contributions
<b>Objective</b>	a. Development of public facilities b. Increase of Use in Building Lots	a. Development of structural urban interventions b. Increased density
<b>Legal base</b>	Land Readjustment Law (1954)	Statute of the City (2001)
<b>Incidence area</b>	Applied broadly from Urbanized Area (Area for urbanization promotion)	Application in the Macro Zone of Urban Qualification and Restructuring (PDE)
<b>Project dimensions</b>	Generally in 10 to 50 ha areas	From 450 to 3000 ha (regulation and not intervention perimeter)
<b>Implementation agency/body</b>	Individuals, cooperatives, locals (City Halls), governments, public corporations <sup>3</sup>	Municipal City Halls
<b>Characteristics</b>	a. Comprehensive urban development with extensive use b. Fair distribution of costs and benefits c. Preservation of ownership titles d. Participation of landowners and tenants e. Imparcial procedures	a. Extensive regulation, localized intervention b. Presupposes the recovery of real estate values c. Participation of landowners, residents, investors and users
<b>Types</b>	a. Building Lot Supply Type (New Urban Development Type/Sprawl Prevention Type) b. Public Facility Development Type (Urban Renewal Type/Urban Center Development Type/Urban Reconstruction Type)	a. Urban renewal of underutilized areas and old industrial areas b. Increased density and infrastructure improvements c. Regional Development Projects d. Adjustment of land use and urban equipment as a result of great interventions in infrastructure for collective transportation
<b>Contribution/counterpart</b>	a. Donation of part of the lot b. Financial c. Public works	a. Cepac b. Financial c. Public works
<b>Granted incentives and benefits</b>	a. Valorization of lots and properties b. Environmental and urban infrastructure improvements c. Reduction in financing fees	a. Additional construction potential b. Changes in building and utilization norms c. Indirectly: Valorization of lots

Sources: Urban Development Project in Japan. City Bureau, Ministry of Construction Government of Japan / Japan Land Readjustment Association. Atou - Assessoria Técnica das Operações Urbanas / Sempla

with its social function. In this sense, OUCs, as described in Chapters 3 and 4, only induce private capital to participate in urban transformations, making it necessary to have a combination of other instruments that better interfere in private land, and consequently, in the land rearrangement.

With regard to LR's land transformation potential and its role in self-financing projects (and the resulting distribution of costs and benefits). We have one comment to make about these "types" of concepts. International literature about LR is full of case studies and explanations about the instrument's technical aspects, especially with regard to the method's introduction in other countries. This study does not totally incorporate this extensive literature, but there is an important aspect to analyze about LR, which leads us to resort, in part, on this literature. In William Doebele's considerations made at the workshop about land readjustment promoted by the Lincoln Institute of Land Policy, in 2002, outlined two versions of LR, if we can make this simplification. The first is related to the role of this instrument in the best land arrangement and assemble and the second is related to the same role, but the project's self-financing. In other words, the purpose of the instrument in facilitating land readjustment through replotting does not necessarily mean that the landowners other stakeholders in the project fully finance the execution of infrastructure through the sale of reserve lands. Doebele actually defines the first version as land readjustment and the second as land readjustment with cost recovery. This difference expands the possibilities for this instrument to be explored in developing countries, possibly in area of precarious urbanization such as illegal lots and shantytowns, because it clears the way for subsidy and for land adaptation separately.

Resuming the comparisons between LR and OUC, it is important to underscore some differences. LR falls on a set of properties that will be fully transformed and the OUC falls on a set of blocks that will be available for urban incentives. Since the LR project extensively transforms a certain sector, it permits better identification and distribution of costs and benefits. The OUC project establishes a work program to be implemented over time and set of benefits to be granted, including the granting of additional construction potential. From the considerations presented herein and the analyses developed in the previous chapters, we infer that the OUCs can be combined to the LR since the latter offers, among other aspects, one of the necessary and essential elements to making urban projects feasible in São Paulo: interference in the right to property, combined with the preservation of real estate ownership. This possibility avoids expropriations and presupposes "obligatory involvement" of landowners in the land parceling, land assembling and shifting of properties, maintained in terms of titles, transformed in terms of shape, and probably appreciated in real estate value.

As we will see further ahead, the discussions promoted in the workshop permitted greater understanding of the feasibility of exploring LR concepts in urban planning practices in São Paulo, more specifically in the promotion of joint urban projects.

### **Implementation of urban projects: adapting land readjustment concepts**

The study of the adaptation of land readjustment concepts shown follow is part of the project exercise that began in Japan during the course 'Urban development (focused on land readjustment measures)'. It is a study for the reformulation of the Carandiru-Vila

Maria Urban Operation framework through the implementation of land readjustment instruments, and the intervention plan is in its formulation phase at Sempla.

This study assumes that the OUCs should be reformulated using the operational instruments foreseen by the LR method to complement urban and economic resources foreseen by the operation. In a normative reform of the instrument on a federal (Statute of the City) and municipal (revision of the Strategic Master Plan) legislation level, the replotting instrument should be incorporated and instituted in the project areas, and during this process, join landowner and tenant participation so the urban legislation can receive potential support for applying the improvements and so it does not work as a disjointed public project. The lessees need to comply with their social obligations and accompany and participate in the process, exonerating public authorities from any expropriation. This reform should also incorporate the contribution rate, adding the possibility to contribute a portion of the lot to Cepac utilization and the onerous granting of the right to build. This revision will serve to discuss the distribution of costs and benefits with the objective of solving problems related to urban development projects.

An alternative financing system would be proposed with the creation of recovery instruments and distribution of the development's increased worth. This system would stipulate the reduction of private lot contributions for the configuration of reserve lands through resources from the onerous grant of the right to build. Therefore, this revision would incorporate a type of amortization of land contribution rate. In other words, other instruments would be combined to conduct the project, facilitating and reducing contribution impacts. Using São Paulo's experience regarding to "created land", the use of the onerous grant of the right to build was proposed as an alternative for amortizing costs or losses resulting from the contribution of a part of the lot. For example: if a landowner had to contribute 30% of the lot, this percentage would be reduced if the grant financed the other part.

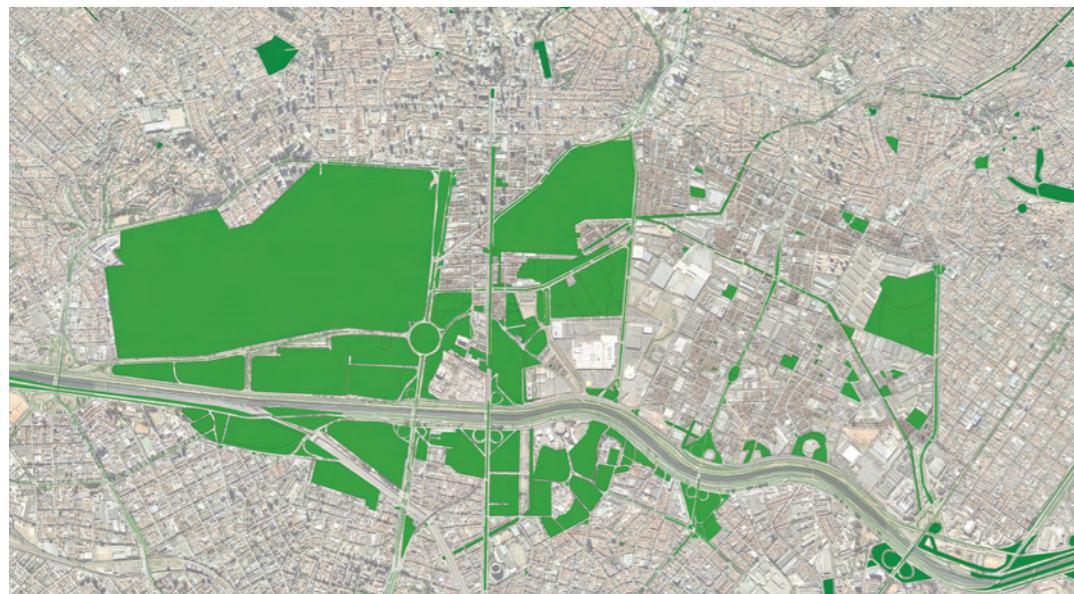
Establishing this new financing system would foresee, temporarily or not, fiscal incentives and tax exemption for acquiring reserve lands, the creation of the fund for development resources and credit pool, whenever necessary, for the (indirect) financing of the urban operation. The investors would benefit for reserve land acquisition because besides buying a lot in a privileged location, newly redrawn and with appropriate urban installations, they could also build above the utilization coefficient foreseen and permitted by the Strategic Master Plan. The reserve lands and the operations budget plan would become more attractive and would carry out the operation faster. In a complementary manner, the LR would establish land readjustment and the OUCs would establish readjustment of the construction potential.

During the course, the Carandiru-Vila Maria urban operation area was chosen to study as a pilot project. This project was given this name due to the deactivation of the Carandiru Penitentiary Complex in August 2002, followed by the proposal that the largest penitentiary in Latin America would be converted into a state park, with spaces for cultural and educational activities.

This area is characterized by its alluvial plain along the Tietê River valley, which in the 19th Century was comprised of extensive floodable areas along the river course and its permanent lakes. In the 20th Century, during the São Paulo urbanization process, correction of the river course and the system of valley inundations (drained and filled with land) led to serious problems, such



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**LEGENDA**

■ Áreas públicas (Federais, Estaduais e Municipais)

as: land ownership, administration of resulting areas, management and control of public concessions, disorderly occupation of the territory, insufficient drainage system and land waterproofing.

The region has peculiar characteristics, considering the presence of large metropolitan-type enterprises, such as the Anhembi Convention Center, Grande Otelo Carnival Cultural Center, Campo de Marte Airport, Tietê Bus Station, Shopping Center Norte Mall, Expo Center Norte, Mart Center Complex, São Paulo Horsy Association, the commercial centers of Santana, Vila Guilherme and Vila Maria, private universities, clubs and hotels. But in this area we also find slums and shantytowns, large empty or underutilized areas, old abandoned industrial installations that have been transformed into warehouses, garages for transportation or cargo companies (elements that contribute to the deterioration of the region and the consequently the depreciation of the real estate market).

This region's land occupation, divided into lots with reduced dimensions and the occupation of small residences, surrounded by large constructions that are base to companies, transporters and old industries, results in an inhospitable and hostile environment, stripped of appropriate circulation and sufficient infrastructure that corresponds to the area's vocation and the great demand for circulation required by metropolitan-type equipment. The number of green areas fell over the past decades due to the process of irregular, unplanned occupation, which reduced the number of public areas and public authority's capacity to build social equipment.

Deactivation of the Carandiru Penitentiary Complex and the current implementation of the park, called Juventude Park, as well as the permanence of metropolitan equipment, have the potential to increase the value of the region's land, making interventions and normative measures necessary in order to manage this process. As an objective, this operation should strengthen new investments that correspond to the region's vocation as a center of attraction of business tourism and entertainment. The necessary proposals for the region's integrated urban development, elaborated at Sempla according to LR concepts, would be:

**a.** Expansion of the road connections and favorable conditions for public transportation: due to the lack of east-west connections in the north of the city, intense traffic heads toward the downtown area or the large loops, often to get to nearby regions or neighboring districts. This disjointed road structure is unfavorable for the use of intra-district public transportation, which overloads the road system and creates traffic jams that reach several kilometers in length on the Tietê River Marginal Road. Therefore, construction of an east-west road network north of the bus station and the Tietê subway station, would be a sup-

**Aerial image of the Carandiru-Vila Maria Urban Operation in 2000.** Source: Atou - Assessoria Técnica das Operações Urbanas / Sempla

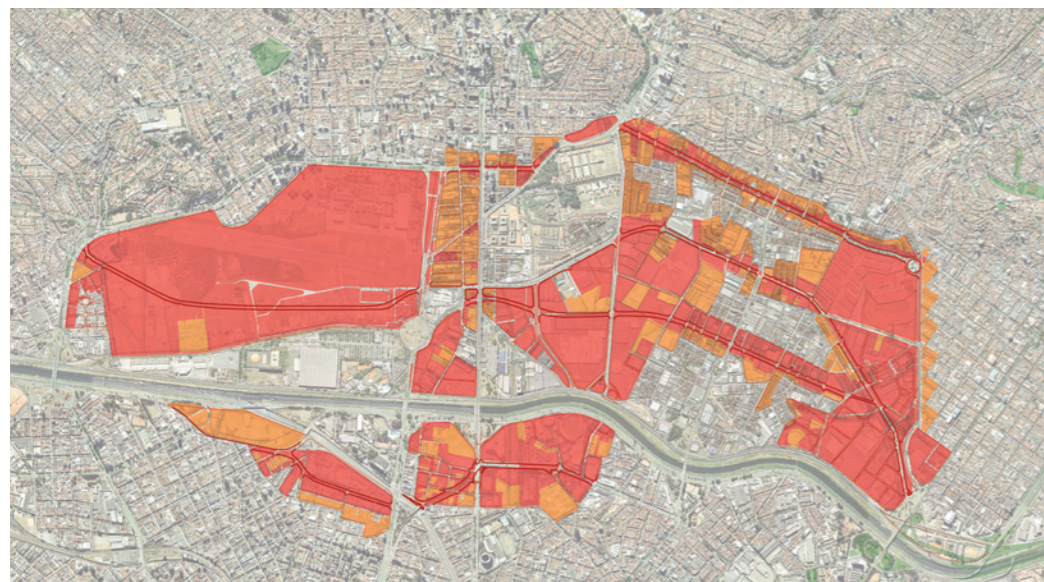
**Land Survey and Municipal, State and Federal Public Areas.** Source: Atou - Assessoria Técnica das Operações Urbanas / Sempla



**LEGENDA**

— Principais intervenções no sistema viário

0m 500m 1.000m ↑



**LEGENDA**

■ Área diretamente influenciada pelas intervenções  
 ■ Área indiretamente influenciada pelas intervenções

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port system for the expressway and would expand connection with the city of Guarulhos to the north by means of Luis Dumont Villares Avenue as an alternative to access the Dutra Highway, reinforcing the region's metropolitan scale.

**b. Reconfiguration of urban space and creation of potentially structuring public spaces:** this is the promotion of land replotting, especially in the large industrial sections, which would make better use of the land and more homogenous sector. It also considers the recovery of streams through the reallocation of irregular occupations of some shantytowns and the reconstitution of parks and green areas. This would articulate the public areas, which should spread along the project's area, conditioning this section of the city in a model for integrated development.

To carry out the abovementioned guidelines, the replotting of sections and lots is a fundamental tool to be explored. It would make land available for road projects through surface donations of part of each property involved as a contribution from affected landowners. The costs involved in infrastructure improvements would also be calculated and the increase in property value resulting from the land readjustment would be estimated. The application of LR concepts to facilitate project execution in the urban operation would be handled as follows:

- 1. OUC Plan:** the reconfiguration plan would be announced publicly by assemblies and public audience. Landowner and tenant opinions and criticisms would be considered and amendments would be made, if necessary. The implementation agency would create a council whose members would be elected by those involved to represent their interests, and it would initially evaluate project feasibility. This entity could exercise its authority over several issues, such as the land replotting plan, designation of temporary replotting and due compensation for possible property value depreciations.
- 2. Implementation agency:** the project will be conducted by an implementation agency designated by City Hall with the participation of landowners and tenants. In the case of implementation, the assemblies will be assisted and managed by conductors authorized by public authorities with a highly trained technical team and sufficient resources. Regardless, the project would be conducted to achieve consensus and agreement among all those directly or indirectly involved.
- 3. Land replotting technique:** during plan preparation, the replotting project would involve two steps. The first one, related to the definition of development project costs and benefits, would serve to obtain a financial estimate for the project. The second would be to distribute the burdens and the benefits among the landowners and tenants. The costs would be submitted as "contributions to improvements", whereas the benefits would be measured by the increased value of the land. Replotting would

**New Trunk Roads Proposal for Carandiru-Vila Maria Urban Operation.** Source: Atou - Assessoria Técnica das Operações Urbanas / Sempla

**Areas influenced by New Trunk Roads Proposal and linked to the LR's Process.**  
 Source: Atou - Assessoria Técnica das Operações Urbanas / Sempla

include the redimensioning and repositioning of old lots into new and adjusted lots. Its project would stipulate, beforehand, payment of lot readjustment, rights on temporary repositioning (another besides the property) and the location and size of the lots for project financing – which would discourage land speculation through the acquisition of land for future profits. In areas where there is no population to reallocate, there would be two project lines: one would redo the replotting taking into account land contributions for the works carried out by public authorities, and the other, similar to the first, but self-financed through the commercialization of reserve lands.

**4. Land appraisal system:** City Hall may have an in-depth study of the entire area (digital map of the land system and plotting of existing land and a complete register of all involved property titles). This study, when added to a property registration system derived from a unified database, would facilitate keeping ownership throughout the transformation process. Replotted land ownership would be validated through a legal and formal title system and the establishing of a real estate market that would operate using known appraisal rules.

**5. Right to property:** the landowner would legally remain as owner of the readjusted land and would not be reallocated to other districts. In many cases, he/she would remain in the same domicile as before project execution. Slums and shantytowns with confusing delimitations and plotting would be repositioned and during the process property rights would be regulated.

**6. Execution plan:** with the approval of the urban operation, the works and temporary transfers would begin to carry out the replotting project. From project to execution, this plan, which contains about 75 ha, would take 25 years, in an estimate based on the duration of the projects in Japan.

**7. Operation costs:** the implementation agency would have a specific fund for the urban operation that would initially count on federal financing for building the main infrastructure, and over time, with the sale of reserve land. With the acquisition counterpart of additional potential for the right to build, the debt would be amortized. Finally, after execution of the plan, the implementation agency would be shut down and the experience transferred to other municipal bodies.

**Aerial view of the Santana district and Carandiru Penitentiary Complex in 2002.**

Source: Atou – Assessoria Técnica das Operações Urbanas

**Aerial view of the Vila Guilherme district.** Source: Atou – Assessoria Técnica das Operações

Urbanas



**Exercising the reformulation of the Carandiru-Vila Maria Urban Operation: before and after implementation of LR concepts**

Item	Before concepts of land readjustment	After concepts of land readjustment
Total area of project - regularized situation (addition through new survey)	740,094 m <sup>2</sup> 8,906 m <sup>2</sup>	749,000 m <sup>2</sup>
Total area for infrastructure construction	4,952 m <sup>2</sup>	218,124 m <sup>2</sup>
Total area for buildable lots	735,142 m <sup>2</sup>	441,278 m <sup>2</sup>
Total area for reserve land		89,600 m <sup>2</sup>
Contribution rate for public space		27.8%
Contribution rate for reserve lots		12.0%
Total contribution rate		38.0%
Final contribution rate (amortization through onerous grant resources)		12% a 16%

Source: Felipe Francisco de Souza, project developed in the training course “Urban Development (focused on Land Readjustment measures)”

**Internal evaluation workshop on ‘Land readjustment and joint urban operations: urban instruments for urban development’**

The workshop was conceived to permit sharing knowledge acquired on the LR method with Sempla technicians and, likewise, to exchange the OUC experience with technicians from Curitiba and Colombia. Colombia was chosen for being the only country in Latin America that implemented LR concepts and therefore is closer to Brazilian reality. Curitiba’s representation through Ippuc occurred due to the opportunity to gather scholarship holders as a result of the technical cooperation promoted by JICA, and since it is not the only body with broad experience and success in conducting urban planning in Curitiba, and since it also foresees the promotion of an urban management course to be held in 2007. We believe the course to be held will permit moving forward with ideas presented herein and their multiplication through Ippuc urban planning professionals and participants from other Latin American countries.

The schedule established a two-day event. During the first day, the following presentations were given by the corresponding exhibitors:

- ‘Panorama of urban planning in Brazil and in São Paulo’, Domingos Theodoro de Azevedo Netto;
- ‘Urban operation experience in São Paulo’, Pedro Manuel Rivaben de Sales and Marcelo de Mendonça Bernardini;
- ‘Curitiba’s experience in urban instruments’, Ângela Dias Bertonini;
- ‘Urban planning in Japan: general panorama’, Daniel Todtmann Montandon;
- ‘What is land readjustment’ and the ‘land readjustment project: script’, Felipe Francisco de Souza;
- ‘The land readjustment experience in Colombia’, Augusto Cesar Pinto Carrillo.

The exhibits were followed by an intense debate in which the participants Clementina de Ambrosis, David V. B. Ventura, Domingos T. A. Netto, José Geraldo M. Oliveira, Marcelo de M. Bernardini, Nilza M. T. Antenor, Pedro M. R. Sales, Marcos G. Batistela, Augusto C. P. Carrillo e Ângela D. Bertolini were able to learn the main concepts and unveil the challenges at play related to LR and OUC methods.

The second day started with a brief description of the comparative analysis between the methods, followed by initial questions concerning the OUCs and the proposal of discussion points about both instruments that resulted from the first day’s debate. The questions were introduced in Chapter 3 and the discussion points were the following:

- Alternative to combine urban instruments: the land readjustment does not need to be implemented according to the Japanese model, but the elements can be explored individually (redimensioning, repositioning and contribution with part of the land.).
- Urban project: this is the main element to guide the actions focused on urban development guidelines.
- Possibility to separate the recovery policy from the value-added of urban projects: land assembling can be applied as a facilitator for land readjustment regardless of charging contributions or obtaining resources to enable public works (for example, obligatory land donations as a result of urban standards).

- Pilot study: feasibility of application in empty sections that are underutilized or in urban expansion areas, under conditions of the nonexistence of inhabitants and large construction.
- The urban standard does not depend on the instrument, but on the urban project.

A debate was then held concerning the feasibility of implementing LR concepts in Brazil and in São Paulo based on the questions presented and the points of discussion, in face of the following themes related to urban instruments: urban and institutional aspects, legal aspects, urban projects, urban development and management. The main points and reflections are discussed further ahead.

With regard to OUC management, Mr. Francisco Vidal Luna pointed out the need to create different forms of management and promoting urban projects, according to real estate capital participation. When private investment had more space for action, a company or partnership could be constituted with a specific purpose. This promoting company or entity would have the power to buy, sell, intervene and collect, practicing entrepreneurship in finalizing urban projects.

Urban instrument management also depends on the institutional strength of public entities. Architect Angela Dias Bertolini told about Ippuc's experience in building and transforming the city of Curitiba, which was always based on guidelines defined by urban planning instruments. Examples were given of "created land", transfer of the right to build and the onerous grant, destined to increase density in a controlled manner, to restore historical buildings and preserve green areas, respectively. In these cases, project negotiation and feasibility were possible thanks to Ippuc's proximity to the negotiation with developers and institutional integration with other public bodies.

Architect Augusto C.P. Carrillo developed a reasoning that contributes to a better understanding of the necessary approach between the Government and private capital in promoting urban development. It is necessary to break the city's production model building by building, lot by lot, to more appropriately manage urban land with regard to environmental issues and landscaping and ensure the exercise of property's social and ecological function. As the number of agents involved in an urban action is expanded, the complexities increase. In this context, the planners must make public interest prevail, although with greater access to real estate capital to better negotiate the interventions. For such, Carrillo says "legal adaptations, institutional and cultural changes" are necessary. He says, for example, that in Colombia instruments are being implemented such as the land and real estate market observatory, in order to recognize market behavior. This is valuable information for the formulation and execution of special urban renewal policies as instruments for public authorities to better understand real estate activity.

With regard to the induction profile of joint urban instruments in São Paulo, whether OUC, urban intervention areas (AIU), onerous grants for the right to build, transfer of construction potential and real estate pooling, architect Nilza M. T. Antenor underscored that this "multiplicity of the offer" creates competitiveness between these instruments. In other words, this is a condition that reduces their inductive capacity since there is a "large offer of exceptions".

A particularity of the city of São Paulo, addressed by architect Domingos T.A. Netto, is the restriction of horizontal urban expansion with barriers or limiting factors to growth being the Cantareira Mountains to the north, water to the south and the adjoin-

ing cities to the east and west. This implies the inevitable need to transform the city's urban land and promote its consequent verticalization. In this sense, OUC and AIU instruments become even more important in enabling this transformation associated to the productive real estate activity for formal urban space.

Other points addressed by architect Domingos dealt with those issues related to improving urban instruments, expanding the debate concerning the general challenges to which urban planning is submitted. At first, the need for prodigious action of cities like Porto Alegre, Recife, Brasília, Florianópolis, São Paulo and Curitiba, which did not submit themselves to the content set down by federal and municipal laws, was underscored, but they transcended their concepts and procedures in order to better promote urban planning actions. Another aspect to be addressed is reapplying the improvement contribution, forgotten by public authorities, but latent in its potential to promote, in a way, the fair distribution of benefits and onuses resulting from the urbanization process. He underscored that added-value (plusvalia) participation adopted in Colombia is relevant because it considers the alteration in urban legislation and the transformation of rural land to urban as public actions that can generate added-value and public authorities would be able to identify it, recover it and distribute it.

The need to go beyond the lot as an intervention unit in the regulation process and production of the city was a broadly addressed concept by architects Marcelo de M. Bernardini, Pedro M. R. Sales, Domingos T. A. Netto and Augusto Carrillo. The block or set of blocks must be considered as a project unit in interventions in the contemporary city whose actions in public and private land are conjugated through the urban project, which, according to Bernardini, recognizes the intermediate scale between the general plan and the lot. To this thought we add what was pointed out by architects Pedro Sales and Nilza Antenor who underscored the urgent need for regulation and control of the transformation of huge industrial section, today being considered for large, walled-in residential condominiums that seek to reinvent an exclusive environment for the inhabitants who are supposedly safe and protected from the city.

Also concerning urban instruments, attorney Marcos G. Batistela pondered the different approaches developed by urbanists and jurists in elaborating the Statute of the City, where the former inhabit the world of possibilities and the latter the world of restrictions. These "conflicting" views govern the institution and execution of urban policy in Brazil, a fact that should be better explained in legal matter.

With regard to the feasibility of incorporating LR concepts in Brazil, and more specifically, in São Paulo, another point to consider is the demystification of the Japanese model's standard. As highlighted by architect Augusto Carrillo, observing the application of the method in other countries, it is possible to explore only some of LR's concepts and not necessarily the full format, combining the ease in land transformation and the project's self-financing.

After the debate, each debater presented their testimony concerning the feasibility of implementing LR concepts in Brazil and in São Paulo, some with regard to previously defined issues, others in relation to the general aspects of urban planning.

## Urban Instruments for urban development

Ângela Dias Bertolini<sup>4</sup>

Concerning urban instruments and urban development, the topic currently being debated, we would like to make the following comments motivated by the need to find new solutions for urban renewal areas and new districts and by the difficulty in applying management instruments in the Statute of the City, compared to the land readjustment instruments in Colombia and those practiced in Japan:

**1.** There has been an effort to apply value-added land recovery in Latin American countries such as Colombia, Chile, Venezuela and Mexico. National legislation was defined with a tradition of more than 50 years in applying instruments destined to recover land values. Some are limited to recovering investments in the works executed by public authorities, and others recover real property values.

**2.** The management instruments are economic, financial and environmental and historical preservation instruments and they begin to be applied in Brazil after the Statute of the City, a Federal Law approved by 2001. Even before approval of this law, some cities innovated using creativity. There are several examples of applying associated operations, transfers of rights to build, onerous grants of rights to build and others, as in the case of São Paulo and Curitiba. In all cases, it is very clear that these instruments have greater applicability and success when city planning and urban management policy are clear and pragmatic.

**3.** We will use the case of Curitiba as a reference, where throughout its master plan the city has obtained resources in partnership with private initiative through the application of some instruments through which value-added is recovered due to the implementation of guidelines laid out in its master plan and its complementary laws, such as zoning and land use. The following instruments were already being applied in Curitiba before approval of the Statute of the City:

- Onerous grant of the right to build: applied since 1991 through a construction incentive law for building social interest housing. The landowner who wants to increase the constructed area beyond the limits determined by the Zoning and Land Use Law pays the Municipal Housing Fund the equivalent amount in money or in land, which will be reverted to building popular housing.
- Transfer of the right to build: applied since the 1980s as an incentive for the preservation of cultural and environmental heritage.

Municipal Law 9.801/2000 establishes criteria for applying urban policy instruments, in order to promote: incentives for social interest housing programs; incentives for protecting and preserving cultural, natural and environmental heritage; partial or total expropriation of properties needed for an appropriate basic road system; installation of urban and community equipment; creation of spaces for public use and to make use of underutilized properties located in high density sectors.

When applying urban policy instruments, changing urban indexes is permitted, as well as uses and sizes not foreseen in Zoning and Land Use legislation, through a counterpart from the private sector, in the following cases: execution of works and services, constructions and concessions of lots for social interest housing programs, concession of areas needed for preservation of natural and environmental heritage, preservation of historical and cultural heritage, allocation of financial resources.

The Building and Urban Territory Tax is an instrument that is being applied to recover value-added on the part of the public sector through successive updates in property values and according to the property's natural appreciation or through the implementation of works by public authorities.

**4.** We observe that the processes reported on from Colombia and Japan are processes that take a long time by their very nature and which

advance over time. This factor is naturally due to others that go beyond municipal control: economic crises, migration, demographic growth, bad weather and conflicts that will determine the speed and real estate interest in the land reorganization.

**5.** Value-added is first mentioned in the proposal to amend the federal lot distribution law currently in Congress. Some reasons can be pointed out as to why this appreciation of lots affected by public works should not be applied:

- There is no control over land prices in Brazil. There is great variation of property values due to the inconstant real estate market;
- This mechanism can function only as an accumulation of taxes, without meaning any redistribution;
- Even though these resources are destined to the low-income population, they may still be insufficient;
- The oldest inhabitants had access to these services, but they did not have the additional onus to obtain them.

Due to these doubts, we need to greatly improve this new principle of real appreciation of property as a result of public works, taking into consideration that certain experiences in applying improvement contributions in areas, even with the intent to benefit occupants, may result in the removal or exodus of those who do not have the resources to bear the burden of the carried out improvement.

**6.** Administrative and fiscal decentralization requires creativity and the use of alternative fund sources to finance the urbanization process, favoring direct negotiation in land use regulations and in public-private partnerships, permitting improved reconciliation between the real estate interests and the public sector in promoting urban renewal and in promoting new areas for occupation in the city.

Finally, we conclude that the application of value-added in urban operations in Brazil not only depends on regulations set down by law, but especially on an adjustment in property values to avoid inconstancy and to be recognized as an alternative source of public funds that should be incorporated to planning and later to urban management.

As incredible as it may seem, the populations located in lesser-privileged areas have a greater tendency to accept being charged for improvements due to their perception that this is the best alternative to receive infrastructure and have their land legalized. In cases of land regularization, in the city of Curitiba, the following occurs:

- Land reorganization;
- Landowners donate land in exchange for the transfer of construction potential;
- In some cases there is a reduction in the landowner's property size: in exchange for the valorization, the landowner receives a differentiated construction potential on the property that remains;
- The new landowners pay for the new financed lot;
- Community equipment is installed by public authorities;
- Urban territory and building taxes are updated.

Urban indexes must be shown the local residents in a transparent manner. The director plan must be implemented according to the proposed guideline, and its continued implementation must follow initial guidelines. This demonstration of good faith confers reliability to the public sector so the partnerships can be finalized.

These partnerships must be protected by contracts that clearly and objectively establish the duties and obligations for each party, previously agreed upon through meetings with the involved community.



## International experience in land readjustment and its application in Colombia

Augusto Cesar Pinto Carrillo<sup>5</sup>

Modern urbanism is characterized by the application of effective land management and arrangement techniques, articulated with complex urban planning systems. As a rule-of-thumb, these systems comply with legal and constitutional principles that protect individual rights of property, and collective rights concerning its social and ecological function. From these public and private interests, urban legislation proposes the creation of necessary instruments to achieve equilibrium between the onuses (costs) and benefits (profits) of the city construction process.

In the Latin American context, the reality of the urbanization process associated with high territory consumption, the formation of precarious settlements, the physical and social deterioration of downtown areas, the obsolescence of public transportation and the strong impact on the environment and on natural resources, among other factors, reinforces the needs for adopting land management and arrangement techniques and instruments that contribute to the improvement of associated and non-associated urban areas, as well as those with expectations for expansion. This helps or anticipates solutions to problems related to access to dignified housing, quality public spaces, road infrastructure, public services and basic community equipment.

With regard to the above, and with the purpose of sharing the advances of the Colombian experience in defining a normative framework of the policies and instruments associated with urban planning and territory arrangement with experts from São Paulo City Hall and other Brazilian cities, this testimony will elaborate on some considerations about the process of adoption and implementation of land readjustment on an international scope as a complementary tool for urban management and planning and as a fundamental mechanism to guarantee shared management of the landowners.

On an urban planning level, "land readjustment" (*reparcelaciones* in Spain and *kukaku seiri* in Japan) is defined as a management mechanism through which it is possible to intervene in the building structure of urban zones and urban expansion with the purpose of improving the physical configuration, equipping them with infrastructure and public equipment. In general terms, "land readjustment" is part of an integrated and linked system of planning that complements ordinance clauses from superior instruments such as Territory Arrangement Plans, Master Plans or "*Planos-Maestros*", Partial Plans and Urban Action Units.<sup>6</sup>

On the other hand, the equal distribution of charges and benefits is a fundamental principle of urbanism, as in comparative cases (Colombia, Japan and Spain), and even a part of the general guidelines in the Statute of the City in Brazil (Federal Law 10.257 of 2001, Article 2). With this principle, the intention is to guarantee the equality of citizens before the law and an equal and fair participation for all agents in the urbanization process: buyers, sellers, leasers, constructors, urban planners, financial intermediaries or simply landowners. With such a large and diverse group of agents, the task to share onuses and benefits demands the implementation of techniques, mechanisms or instruments that guarantee equal distribution throughout the operation and facilitate the agreement and decision-making among all.

In Colombia, this principle and the principle of "land readjustment" were introduced by Law 9 of 1989, the Urban Reform Law. These were later recapitulated and expanded by Law 388 of 1997, the Territorial Development Law, which established that "further elaborating the principle of citizen equality before the law, the territorial arrangement plans and the urban legislation that develops them shall establish mechanisms that guarantee the equal distribution of onuses and benefits derived from the urban arrangement between the agents involved." Specifically,

Law 388 develops the principles of the Colombian Political Constitution of 1991 whose purpose is to guarantee private property, fulfill the property's social and ecological function, promote the protection and promotion on the part of the state of associated and solidary manners of property and the application of expropriation for reasons of public utility or social interest.

In practice, it becomes difficult in Colombia to generate a change in the mentality of agents involved and to break with traditional presuppositions of "building to building" urbanization, of full appropriation of value-added generated by urbanism by private initiative, with limited participation of the latter in generating land for public use. Nevertheless, over time, the study of international experiences, legislative development and the implementation of management and planning instruments generated consensuses and credibility in the practice of legal and constitutional principles beforehand, as well as the opportunity for profit from urban operations and the real estate market in general.

From the questions made at the workshop, it is taken into account that current municipal and federal legislation in Brazil permits the appropriation of mechanisms and instruments such as "land readjustment" that guarantee associated management and the equal distribution of onuses and benefits. However, more in-depth study must be made concerning its convenience, adjustments, legislative development (especially the Statute of the City) and possible methodological adjustments. As discussed in the workshop, international experience teaches different ways to apply these concepts, especially to remove the burden of financing the totality of the land acquisition for public purposes and the production of basic public infrastructure and equipment from the government. Likewise, it is important to review and reconsider the Constitution and its norms, the definition and scope of property rights and the obligations as a result of the city's collective construction.

At the same time, this exercise must realize physical, economic and social parameters that facilitate the delimitation of projects and urban operations. Compared international experiences coincide in several criteria, such as: geoeconomic homogeneity, which reduces the number of landowners; the preponderance of a dominant or determining factor in the operation (housing, commerce, public space, industry, preservation of historical heritage, etc.); interest and willingness manifested by the majority of landowners; and the attraction or interest the project may generate among private investors.

It is important to observe that we should guarantee landowner and their neighbors' adherence to the project in order to endorse arrangement decisions, especially those related to public space, mobility, equipment and environment. To achieve this participation, committees or work groups are created capable of facilitating these agreements where it is fundamental to have the participation and guidance of public entities in charge of planning. On the other hand, land readjustment in precarious settlement zones, although completely feasible, must undergo methodologies and procedures that are different from those applied in zones for expansion, renovation or urban development. At first, the government must assume an important percentage of the onuses generated by the project (through housing subsidies, legalization and deeds, programs for full improvement of the district, direct investment in public works for basic sanitation, roads, etc.). Second, the onuses and benefits must be distributed among the agents (landowners and private) of the operation.

With regard to the contributions, their application must be subject to the definition of the consensual and fair model of onus and benefit distribution. As such, the contribution is an onus – preferably obligatory and free – assumed by the landowners of an urban operation, whether there is land readjustment or not, with the purpose of funding the territory's needs for public equipment or economic resources for financing local or regional urbanism works. In this sense, the contribution should be accompanied by a grant of benefits in equal proportion to the contributions

received. Or, more simply put, the appropriation of a percentage of the appreciation or the value-added generated by the project. Or, in other cases, the improved urban utilization (in negotiable, urbanizable or buildable square meters) that has planning. In every case, the contribution must have clear rules for calculation, forms of payment (piece of land or money) and destination, as well as instruments that guarantee their definition and transparency of applied technical and legal procedures.

The contribution concept can always be applied directly to the joint urban operations. The same is valid in situations where the operation bases with landowners, inhabitants, permanent users and private investors establish the equal distribution of onuses and benefits where there is political will and legal security to apply this mechanism. It is thus possible to ensure the right to property and compensation for possible effects generated on the same. Like the Japanese model, it is important to establish beforehand the purpose and destination of the contribution. In other words, its application for the generation of reserve lands and/or to build public spaces and equipment. In the first case, the criteria of greater land value and accessibility in the project will prevail where these lots are located, especially when commercial use is promoted. In the second case, it will depend on planning and the better distribution of the contribution, dealing with grants of part of the lots for parks, squares, infrastructure, equipment and public services.

Finally, the evaluation of the lots must adjust to traditional techniques that are legally reliable and economically fair. The evaluation method applied in Japan is very particular to its context and its application and implementation becomes complicated in countries with different economic, social and cultural conditions. In Spain<sup>7</sup> and Colombia more conventional evaluation methods are applied, for example: comparison or market, replacement cost, rent capitalization, the residual or a combination of these. In these countries, the reference value for lots before the project corresponds to their commercial value<sup>8</sup> without incorporating urban expectations generated by planning and/or urban projects<sup>9</sup>. The value of the lots before the project will be evaluated according to the commercial value incorporated to said expectations and on the properties' final sales prices.

### Considerations on new urban instruments for urban development and public management

David Vital Brasil Ventura<sup>10</sup>

After enactment of the Federal Constitution of 1988 and especially with the approval of the Statute of the City (Law 10.257/01) and the São Paulo Strategic Master Plan (Law 13.430/02) several instruments area available for formulating urban development policies.

In this brief essay, we intend to reflect on the importance of management models and processes for enabling programs and projects in the public area, specifically in urban policy, considering the possibility of adopting land readjustment principles in the city of São Paulo.

Implementation of an instrument with these characteristics runs into political, institutional, technical-legal and social-economic-cultural barriers. This raises questions such as the following.

#### Political aspects

A first question to be addressed at a public policy level refers to the institutionalization of land readjustment, that is, the need for its creation on a national level as an urban instrument. It then needs to undergo technical-legal regulation and be implemented through diverse agents involved in the process: public authorities, private initiative, landowners and other sectors of society. This takes us to the formulation and implementation process of public policies, which encompass at least the following phases:

- Identify an public policy problem or issue;

- Decide on the best way to confront it;
- Decide on its inclusion in the government's political agenda;
- Establish the best way to confront it;
- Institutionalize the topic;
- Legislate on the topic;
- Implement plans, programs and actions;
- Accompany and manage its implementation;
- Evaluate the result periodically;
- Reformulate whenever necessary.

As can be seen, the beginning of this process fundamentally depends on the government's political will. This raises a second question related to administrative discontinuity, which makes the plans, programs and projects of an administration that lasts four year become transformed or even abandoned by the next administration.

This constant change in rules is a reality that must be administered, because it is part of the democratic game. However, it renders a certain instability to the process, which leads to the third question, which deals with the reliability of public authorities before public opinion, especially landowners, developers and investors in the real estate market.

This takes us to a fourth question: the credibility of private agents. This distrust on the part of society is not restricted to public authorities. Quite the contrary, it also extends to the private agents involved in the process. Motivated by action by some opportunistic developers who compromised the business sector, society often has a very negative image of them.

#### Institutional aspects

From an institutional perspective, an initial question is related to human resources at a public administration level, which need to be qualified, trained, motivated and paid accordingly to avoid restraints, deviations or even the process' collapse.

Another concern must be with the creation and improvement of an effective evaluation system to calculate the fair market value of property, whether through a commission or council, and the establishment of clear and precise procedures, avoiding subjective and extremely prejudicial approaches.

This leads to the need for a real estate registry system based on data precision, comprehensiveness and permanent updates. It is also fundamental to have these data available both internally and externally for the public sector to provide them with transparency and reliability and for them to maintain control of the urban territory. It is inadmissible to have databases with information of such importance that are not accessible.

This, in turn, points to another crucial issue: The need for articulation among public agents to enable the success of a negotiation process, avoid and overcome conflicts, overlays and divergences between public entities that appear to not belong to a larger institution that manages the city in its various aspects. This articulation is not only restricted to municipal public agents, but also to the other entities at a state and federal government level.

It also becomes necessary to take into consideration the interface with other legal and urban norms, such as the restriction that regulate historical heritage and the environmental heritage and which are in turn standardized and managed by specific technical entities that do not always have a single position regarding the same problem.

It is of fundamental importance to create a new management model to coordinate the formulation and implementation process of a new urban policy such as the one referred to herein. This agency or regulating entity must have certain independence and autonomy, but at the same time be representative and encompass public authorities, private initiative, landowners and social entities involved with the theme, such as the cases of Puerto Madero (Buenos Aires) and Docklands (London).

#### **Social-economic-cultural aspects**

Three fundamental questions can stand out at this level, among others, and that although addressed superficially, need more in-depth study since each is deserving of longer discussion.

The first refers to the private property regime and concept, which is guaranteed the citizen by the Federal Government through the Constitution. This guarantee implies a greater principle that establishes the property's social function, where the collective right is greater than the individual right. Despite that, any intervention by public authorities on property is considered a threat, real or not, which leads to reactions of nonconformism by a large part of society, informed or not. Urban intervention programs forcefully interfere in the citizen's property, generating a manifestation when some disadvantage is perceived thereby rightfully charging the government for reimbursement of possible losses. However, when this intervention brings benefits (for example, with regard to property appreciation), the reaction is one of resistance to the socialization of this appreciation, considering the benefit nothing but the government's obligation.

A second question that must be addressed in the public policy planning level is related to what can be called temporary dimension. When working with themes or issues related to planning, it is necessary to be prepared to administer this limitation because in general we work with short-term, immediate vision. It is very difficult to confront mid and long-term government solutions or actions for society as well as for public authorities. Society views mid or long-term strategies as "dragging one's heels", which is often the case. Public authorities, on the other hand, need to show short-term results, because their mandates have predetermined durations, generally four years, whereas a land readjustment process can last from ten to twenty years to be finalized, as can urban operations or urban development programs. There is also the fact that some determinations or proposals found today in the City's Strategic Master Plan were formulated and have been debated for 15, 20, 30 or more years.

The third question is related to the behavior of sectors of society (businessmen as well as landowners) in face of the inherent risks to capitalism and that do not want to take risks and practice "capitalism without risks guaranteed by the government" demanding all guarantees from public authorities that the business will be profitable, a priori, to participate in public-private partnerships in urban development.

#### **Final considerations**

We do not intend to formulate any definitive conclusion in what has been presented, but merely contribute to the debate. The objective is to reflect on some issues to be faced so that new policy instruments for urban development can be more effective.

## **General considerations on urban planning in Brazil and in São Paulo** **Domingos Theodoro de Azevedo Netto<sup>11</sup>**

There are several items in this testimony that I feel to be important for consideration by younger generations as the coordinators of this workshop.

In 2001, when the Statute of the City was enacted, I was both happy and apprehensive. Happy to see many ideas we have been fighting for since the mid 1970s, when we launched the "created land" concept, incorporated in democratically approved federal legislation. And apprehensive with the fear that the Statute of the City could limit cities to the strict content of the law. This can limit creativity to propose new solutions to the country's urban problems, which would be regrettable, because it was daring moves by cities like São Paulo, Recife, Porto Alegre, Curitiba and others that provided the solid experiences that served as a model for several Statute instruments. It is for this reason that we believe the most precious clause in the Statute to be the two others "among other" in the following sentence from Article 4: "For purposes of this Law, we shall use, among other instruments..." Then there is a list of instruments incorporated to the Statute. These two words make room for cities to advance on what has been won and to search for new solutions.

We hope.

This is an appeal to the youth to not be limited to the wording of the law, but to its objectives and principles, seeking to change the law so the objectives may be reached in the shortest amount of time possible, seeking to know about foreign experiences and adapt them to our reality, including our urban legislation. They need to carry this movement forward. But which flags need to be raised, which must be fought for:

1. The contribution of improvements on real estate appreciation, not only that which results from public works, but also that caused by legislation at any level;
2. Land readjustment, which in Brazil has already been called "urban requisition" of "real estate pooling";
3. Regulatory legislation for metropolitan regions at a federal or state level that stimulates reciprocal cooperation among the cities;
4. Federal legislation that complements what is left out of the Statute of the City, such as:
  - What is a city: What conditions must be met for a settlement to be called a city?
  - What is urban land?
  - What is urbanization?
  - When does rural land become urban?;
5. A unified registry of properties, rural as well as urban, that permits monitoring the evolution of land prices;
6. The study of a way to regulate construction that takes into consideration the block where the lot is located and its declivities, as well as permit the definition of a ground floor in relation to neighboring constructions;
7. Exploration of the limits of a real estate pooling found in the Statute of the City;
8. Institution of a maximum urban lot measuring 10,000 m<sup>2</sup> and the use of lands greater than this;
9. Explore the concept of the city's social functions found in the Constitution of 1988;

10. Deepen the social function concept for property or properties.

Despite all the challenges, I would like to leave a message of optimism for the future. In this sense, I tried to synthesize my experience in a sort of Decalogue for the urban planner:

a) *Do not commit the same errors as in the past* (PDDI).

Let's not insist on principles, procedures, hypotheses and concepts that may have been good in the past, but that did not provide good results and today are considered wrong or outdated.

Let's be creative and innovative, let's experiment, check results and adopt the successful ones.

For such, it is necessary to have an extremely agile information system to detect perverse or undesirable effects and permit corrections.

b) *Do not begin with the construction of an ideal city*, not doable in the near future and financially impossible.

Let's take care of the real city, start with our social-economic and cultural reality. Recognize it and accept it as a starting point and begin to change it, if necessary. Let's deal with today's problems.

c) *Let's not continue believing that real city problems are solved by laws*.

The law may be necessary, but it is insufficient. Compliance does not only depend on inspection. The population must obey it, and before anything else, it must be understood.

d) *Let's not consider planning as an end in itself*. It is an instrument for action and only has meaning if useful in everyday decision-making, that is, in government management.

e) *Let's not waste much time on endless surveys and analyses* seeking more in-depth knowledge of problems than necessary for action.

Let's accept that planning is a process that improves over time and is enriched through permanent self-evaluation.

f) *Let's no longer elaborate volunteer plans* that may be theoretically correct, but distant from real problems and yearnings of involved populations and agents.

Let's accept there are several types of plans, whether regarding objectives (health, education, transportation, etc.), whether regarding territorial expansion (national, regional, local) or the government level (federal, state, municipal).

For each of these plans, it is necessary to imagine the best way for those involved to participate in an encompassing, fast and effective manner.

g) *Do not expect the master plan, any one, by itself, to solve all urban problems, or even the most serious ones*.

Cities are very complex. In the best hypothesis, it is the beginning of a process and will only indicate the chosen solutions at the moment.

Let's not re-edit the enormous, detailed and complex PFFI's from the past.

h) *Let's not consider traditional zoning as the only or best way to control land use*. Let's recognize that by nature it is excluding, elitist, unfair, static and anti-economical:

- Excluding because it consolidates and perpetuates social-economic segregation.
- Elitist because the more restrictive residential zones are inhabited by the higher income populations, or the elites.
- Unfair because any change in zones, even when to satisfy an entire city, forcefully enriches some and impoverishes others.

- Static, and the city is dynamic. Thus, there will always be areas where it is outdated, whether lots, blocks or whole districts
- Anti-economical because segregation and uses separate living areas from working areas, therefore the demands for circulation and transportation to satisfy human needs (live, work, consume, recreation and cultivate the body and spirit).

i) *Let's not continue thinking that urban design issues can be solved with legal rules*. Experience has shown that these problems can only be solved with projects and case by case, considering the pre-existing landscape and urban context.

j) *Let's not consider traditional zoning as urban development policy*. This policy truly goes into effect in differentiated actions, in the sense of:

- Preserving and valuing nature and the past;
- Ranking, disciplining and enriching the present;
- Preparing the future and expanding its options.

As a consequence, each of these differentiated actions, or these urban development policies, needs different intervention instruments: urban operations, interconnected operations, transfers or rights to build, lots or compulsory constructions, etc.

Thus, there is no reason to consider it strange to need to go beyond regular zoning legislation with another public authority intervention policy considering the different purposes mentioned.

## Urban instruments and urban development

José Geraldo Martins de Oliveira<sup>12</sup>

The City of São Paulo Strategic Master Plan, approved in 2002, exposed divergences, or even conflicts of interest, in relation to urban land occupation, and revealed serious problems that manifest themselves in the city's land occupation process. It foresaw sparse strategies to face these problems, especially that for low-income housing, certainly the most serious one; and, to face the challenges presented, it resorts to the legal and political instruments instituted in the Statute of the City (Federal Law 10.257 of July 10, 2001), although still little used four years after plan approval.

Of the alluded to problems, the one that certainly is the biggest obstacle to the necessary transformation for the city to more intensely occupy its central areas and impede having them become empty, as has been occurring for some time, results from how São Paulo's urban land is divided. If what is intended, going against this trend, is the most intense occupation of these sectors of its territory, its land configuration must be reviewed. This is the result of the occupation process that has occurred since long ago, during different moments of history and the result of the most diverse social dynamics. There are cases of extensive areas occupied by industry along the railroad lines installed after 1867 and that today are empty after these industrial parks were transferred. In their place, we have huge blocks delimited by a scanty road system that surrounds them, making them inappropriate for any other type of urban occupation. They form formidable barriers that section off vast regions of the city and impede their incorporation into the urban tissue. When not, they become imbedded in the urban environment as they are transformed into closed residential condominiums. Mooca, Vila Prudente and Vila Leopoldina are examples of this.

There are also districts in central regions such as Vila Guilherme and Vila Maria in the north of São Paulo, equipped with sufficient infrastructure to accommodate greater population density than they currently have. There, the dividing of land into extremely small lots delays the desired dynamic of replacing the current form of utilization in the sense of allocating greater occupation density. Quite the contrary, these areas reveal a worrisome reduction in numbers of inhabitants.

The mentioned locations are examples within the perimeters of joint urban operations, respectively Diagonal Sul, Vila Leopoldina-Jaguare and Carandiru-Vila Maria, the object of projects of this nature by the Municipal Planning Secretariat of São Paulo.

However, there are countless cases in the city similar to those mentioned, without mentioning those that "emerged" without municipal control, resulting from clandestine lots or occupations promoted by social housing movements. Jardim da Conquista, in the far east of the city, is an example of land plotting that occurred without lots that obeyed basic dimensional parameters, with the complete absence of free areas. Despite these characteristics, they reveal low density.

Each of these cases is the reaffirmation of how the adopted plotting makes it more difficult to have more intense utilization, or even to improve housing conditions for the population already settled on the site, as in the last case mentioned.

Another situation also helps explain the issue: the area called Gleba Pompéia, located in the Água Branca district in the northwest of the city. This 246,000 m<sup>2</sup> piece of land is part of a small farm originally acquired for four landowners to be divided into lots and which at the time did not receive City Hall approval. Eighty years later, the current landowners, in much higher numbers now, find themselves at an impasse: the lot division originally proposed does not adapt to the urban tissue that surrounds it today, thus impeding its adoption. In turn, the various studies elaborated by initiative of these landowners aimed at remanaging the site's lot distribution and adjust it the neighboring areas run into opposition by the other landowners, significantly in the minority, who believes they are being jeopardized by the others in the proposed rearrangement. Without any instruments to intervene, the city in turn watches this endless pending matter to include this area in its territory, which although not too extensive, is very well located. When called to manifest itself on the matter, City Hall has no way to impose itself in this dispute and do what is of greatest interest to the city – except for expropriation, the most expensive solution.

The observations exposed and the examples employed suggest that the land configuration resulting from the plotting laid out in successive moments of city growth, is the aspect of São Paulo's urban morphology most resistant to change. Land occupation on a land structure changes much easier than this. In turn, the change in uses in relation to other aspects in this ranking is even more agile than the change in occupation and occurs faster than the transformations in land division. According to this reasoning, the change in the type of land structure is decisive for obtaining the intended structural transformations as preconized by the Statute of the City.

The effectiveness of instruments foreseen in the Statute and used in São Paulo's PDE for obtaining necessary results in face of the size of problems before municipal public authorities will be evaluated as they are effectively put into practice. This practice has yet to happen, thus demonstrating the capacity to invert trends of certain urban dynamics, especially those that condemn extensive areas of the city to stagnation or petty utilization.

The successive measures foreseen by law called "land parceling, building and compulsory use", "progressive IPTU over time" and even

"expropriation with payment in deeds", whose sequence renders City Hall the power to decisively intercede in the occupation of underutilized areas in its territory, is probably one of the most bruising of all legal instruments in the sense of imposing the effective utilization of little used lots on the landowner. However, the imbedded mechanism supposes its application over a long period of time and it runs into difficulties with regard to the relative interpretation of the terms "underutilized" and "not utilized" in Article 5 of the Statute. These instruments play inductor roles in the desired transformations in the PDE starting with City Hall's initiative. However, they are not the result of design for the city.

Joint urban operations, in turn, suppose the presence of an urban project that complemented by sectorial plans and programs for the area of influence, shall establish a close link between public intervention and private investment, associating them around this project. However, to implement them, the legal instruments placed at their disposal with sufficient power to implement these projects would not be enough.

Some conclusions result from the observations formulated above, which are indicated below.

The land structure as it is in cast regions of the city makes any effective change in these locations slow and complex and becomes a serious restraint to transformations in the sense of achieving a more intense utilization of urban land. This fact frequently occurs where, to the contrary, there is an accentuated reduction in resident population, reinforcing the trend towards expansion of the urban advance at a high cost for society. Evidently, the fundamental component for the entire phenomenon and which was only mentioned before is the increase in price for the land.

The above-mentioned legal institutes as instruments for implementing public policies and used in the urban transformation processes, were not yet employed with enough determination to conclude with sufficient assuredness on their effectiveness.

Among these instruments, joint urban operations are the ones that have the most advanced and encompassing attributes to promote more effective changes in the territory where they are installed. They determine that resources obtained from conceding onerous grants for the right to build and to alter utilization, in face of current legislation, can be exclusively applied within its perimeter, in the projects for infrastructure expansion and infrastructure, which provides them with a peculiar capacity of operation. For them, the Statute of the City establishes as objectives nothing less than "achieve structural urban transformation, social improvements and environmental valorization in an area" (Article 32, § 1st),

Nevertheless, and despite the set of measures available to seek satisfaction of these objectives, they can find limitations in how the land structure is configured in the plots of the perimeter they encompass.

The institution in our environment that is similar to land readjustment if employed in certain situations and with defined criteria, would certainly provide a tool with longer reach to promote the necessary transformation in areas of strategic interest for the city in the sense of having them comply with the social function of private property dealt with in the Statute of the City.

Different from what occurs in Japan where the legal institute is fundamentally employed to recompose the urban tissue and maintain its inhabitants with a reduced growth in numbers; here the application must be associated to a more intense promotion of land occupation where possible and desirable. Most especially in those areas with infrastructure that is in part recognizably stronger than

what the resident population uses. The criteria for choosing the sites for such utilization would include those that present inertia in the transformation of their occupation for a longer period of time and fulfill the strategic role indicated by the PDE.

As defined, this legal institute, contrary to the others foreseen in the Statute, is an instrument to implement projects in the city.

The comments exposed are reflections extracted from the discussions held around the City of São Paulo Strategic Master Plan, especially after the debate surrounding the revision foreseen therein.

They are also the result of the lectures and discussions resulting from the internal evaluation workshop on 'Land readjustment and joint urban operations: Urban instruments for urban development.

Thus, they are merely concepts raised for debate, which at the end of the PDE revision period, shall lead to a broad discussion of proposals that emerge.

### Land readjustment in the urban operation context Marcelo de Mendonça Bernardini<sup>13</sup>

When we reflect on the issues related to applying the land readjustment method in São Paulo, we cannot let to refer to the recent experiences of new urban operations foreseen for the city in the PDE 2002 and the experience accumulated over nearly 15 years of applying this urban instrument for land rearrangement.

We would like to underscore that from the analysis of urban operations taking place in the city of São Paulo (Água Branca, Centro, Faria Lima, Águas Espraiadas and Rio Verde-Jacu), the one that shows the best financial and real estate results is Faria Lima. Throughout its 11 years of operation, around 1,060,000 m<sup>2</sup> have been commercialized, resulting in the collection of R\$ 363 million for a total of 232 protocolled proposals. The table below lists the urban operations in activity, their area of operation and the foreseen stocks of additional building area.

Table that synthesizes urban operation results in São Paulo				
Urban operation	Year	Area (ha)	Foreseen stock (m <sup>2</sup> )	Results by 2005
Anhangabaú	1991	82	-	19,673 m <sup>2</sup> *
Faria Lima	1995	450	2,250,000	1,060,000 m <sup>2</sup>
Água Branca	1995	487	1,200,000	128,363 m <sup>2</sup>
Centro	1997	582	-	**
Água Espraiada	2001	1,373	2,250,000	R\$ 60,000,000***
Rio Verde-Jacú	2004	7,487	3,570,000	****

Source: Emurb \* Source: Labhab-FAUUSP \*\* Due to the diversity of incentives, it was not possible to tabulate the results.

\*\*\* Commercialized Cepac. \*\*\*\* There are still no data on the results.

Recent analyses of the instruments and results concluded that despite the different criteria (each urban operation has different characteristics), it can be observed that the real estate market was practically only interested in sites where the returns had less risk. This is a characteristic of the São Paulo real estate sector: conservatism, founded on years of experience in a market with high inflation rates, high interest, low financial returns and very long cycle for the produced product, allied with great availability of land to invest in if compared to other large cities around the world.

From this understanding, we conclude that the public sector's role in the induction of urban transformation in areas with great strategic importance in the city should exceed the mere concession of benefits and urban indexes to the real estate sector and participate more directly in building a well-balanced city involving the diverse partners and foreseen activities. The venture would head towards guaranteeing or minimizing the risks involved in investments in the areas that are not always the most economically feasible for real estate developments, reverting and applying the resources raised in the area intended for transformation according to a detailed work schedule.

In this sense, the creation of an intermediate scale for intervention between the PDE's general plan, which defines large structuring lines for city development, and a local project, to define details and specific projects, emerges as a new possibility for land arrangement. This arrangement seeks to give back to the city elements of landscaping allied with the operation of the urban mechanism and the most correct arrangement of activities, guaranteeing the offer of balanced local configurations with quality of life. In this sense, the general plan, which signals a better distribution of activities, thus reducing dislocations and bringing the citizens closer to their place of residence and work, can be complemented by these new urban projects that are tied to the general structure and investigate local specificities.

Therefore, we should understand the application of a new method of urban transformation, land readjustment, as a supplementary instrument for redesigning a complex, consolidated territory in its composition, which demands the recomposition of lots and a new layout. In Japan, the method has been used to redesign old urban areas with feudal arrangements that have survived until today where lot ownership is clear and the urban layout organic or spontaneous, and that need a readjustment of new infrastructure.

In the case of São Paulo, this profile is similar to shantytown areas where spontaneous occupation and precarious construction recall layouts in medieval cities. Land readjustment would be interesting here as a means to introduce the role of the government in these communities, adjusting and redesigning the territory to urban conditions with better quality of life. In the case of consolidated urban tissues, we understand that the method exposed herein could be employed in an advantageous manner when there is a need for replotting the land, especially in areas with older occupation and small lots, many landowners and an obsolete layout, or in large idle sections where an appropriate layout for public space must be given when plotting the area.

### Some legal aspects for comparing the joint urban operation to the land readjustment method applied in Japan

Marcos Geraldo Batistela<sup>14</sup>

The evaluation of the land readjustment method and the joint urban operation as instruments for urban development is a subject that, from a legal-technical perspective, suggests a series of complementary issues that are as important as dealing with the core of the proposed problem. To start, there is the how the subject is put: that which for urbanism and the urbanism techniques tends to be qualified as an instrument does not exist as an operational legal concept. Law professionals (judges, bureaucrats, jurists, etc.) are accustomed and trained to operate as legal institutes. These are elements of reality that receive an organization and specific legal discipline, often from distinct laws, regulations, doctrines and jurisprudence, uses and customs, administrative habits, etc. This affirmation cannot be denied by resorting the text of the Statute of the City (Federal Law 10.257 of July 10, 2001), because Law cannot be confused with law. A difference in focus such as this, apparently without any importance, but with broad consequences when the urban activity reaches the more advanced stage of an urban plan and intends to impose on the realm of subjective rights and legitimately legal interests of private entities and others, or public entities, demonstrates the difficulties in integrating urban techniques and legal techniques. What is usually understood by urban planners as an instrument for urban development normally does not find any translation in legal language as an instrument.

In a broader approach, the issues related to planning, including the issues that result from territorial planning (and urban, especially by the degree of interference in the property and consequently in the realm of legitimate interests and subjective rights of private entities) create great controversy, which is further aggravated by the fact that national legislation of the right to urbanism has barely completed five years of existence and yet to be proven by experience (remember the land parceling law – Federal Law 6.766 of December 19, 1979 – which does not alter the essential reasoning).

The main result from cognitive separation of urban professionals and law professionals, perceived by the use of different concepts for the same element of reality (instrument x institute) is that they tend to inhabit parallel universes: some, the world of possibilities (of the project), and others, the world of limitations (of laws). The communication between them or even the transit between these worlds is rarely established. The reciprocal lack of understanding is aggravated because in the field of urbanism problems rarely find instantaneous solutions. That is because this does not deal with legal acts or business, which are the standard for presenting legal problems in their traditional manner, but with lawsuits, situations that change over time and involve diverse conditions, normally many subjects of law, many legal institutes and aspects of public law and private law that follow different and at times contradictory principles. The problems of urbanism integrate the time factor in a manner that is not usual in the general theory of law.

This initial contextualization of differences in treating urbanism topics is useful to delimit the sense of points that will be indicated below and that comprise an attempt to approach the problem of land reorganization through the associated urban operation institute introduced in Brazilian law by the Statute of the City.

A first verification is that the land readjustment method and the joint urban operation have different objectives. The legally defined objective of the joint urban operation is the achievement of "structural urban transformations", "social improvements" and "environmental

appreciation" in an area delimited by the concession of benefits to landowners, permanent users and private investors, which are fundamentally changes in ordinary urban standards (land parceling legislation, land and underground use and occupation, building legislation, "amnesty" for irregular buildings). The central idea of the land readjustment method is the territorial reorganization of the exercise of the right to real estate property for the improvement of individual and collective utilization linked to the need for land reform to take optimal advantage of private property.

A second observation that must be made is that national legislation does not have an institute similar to the land readjustment method. The few experiences in land reform (agrarian reform and urban reform) are developed using very different paths (fundamentally the expropriation of subsequent land redistribution to other landowners). The real estate pooling foreseen by the Statute of the City as a means for financial feasibility to make use of the property affected by the land parceling, building or compulsory use obligation seems to imply the transfer of ownership of the right to property. Regardless, the contours are not definitively established by national law.

Another possible observation is that the creation of a legal institute equivalent to the land readjustment method in Brazil depends on the elaboration of national legislation. That is because it involves many aspects related to exercising the right to property, expropriation and public registries, which are a matter of private competence of the federal government and demand to be foreseen in general norms of urban law, which are also the federal government's competence. Also related to the general legal aspects, the execution of a land reorganization plan would probably include public areas, especially public goods of common use for the people (streets, squares, green areas) that have regulations geared towards preserving their destination to the collective well-being of the people (therefore, refractory to the change in right to property ownership, which demands its own formalities).

Besides that, the land readjustment method follows a different philosophy from the most common urban inventions in Brazil, because it intends to keep landowners and other owners of rights related to property in the affected area: what habitually occurs here is the compulsory transfer of property, reduction in the value paid as indemnification to landowners stripped of property, mass displacement of the populations directly affected. This different approach, more geared towards correction than towards imposing authority, does not find satisfactory translation in normal Brazilian administration or law, where the "democratic management of the city" appears as an element poorly adjusted to the government's constitutional organization, which is marked by the three branches of federalism (Federal, State and Municipal), by the separation of powers and by a complex division of legislative and administrative competence.

Finally, a fifth observation is possible where the legitimacy of the urban intervention and the resulting land reorganization is given by the execution of the approved plan. At this point, another legally relevant aspect emerges: the shift of substantial legitimate control (legal regularity of acts is determined by the adjustment of legally predetermined content) to legitimate processual or procedural control (regularity of acts is determined by the adjustment of procedures or objectives stipulated in the plan). On the other hand, the constitutional structure of Brazilian law demands the plan be approved by law in a material sense, which makes it difficult – given the known vicissitudes of the democratic legislative process – to have its indispensable adaptation to the mutating conditions of reality over which its execution is an inductive element for new, and often unpredictable changes. On the other hand, the tradition of authoritarianism and the lack of a bureaucratic state-owned administration makes the national political and legal environment resistant to the elaboration and execution

of urban plans, which have an immediate effect in reducing the discretionary operation of public administrators and legal control over exercising political power on behalf of private entities.

All of the abovementioned points, which do not exhaust possible comparisons, but seem to consider the most important aspects, are inter-related. The difficulty in implementing land reform projects in Brazil is not apparent or accidental, because it originates in the Constitution of 1988, which had as one of its structuring elements the maintenance of the country's rural and urban land organization against the claims for agrarian and urban reform. With the passage of time and with accumulated tension from the constitutional assembly greatly diluted, this fundamental decision continues to be perceived whenever the land restructuring topic re-emerges, even when it is geared towards the optimization of real estate property utilization and not for social reform, as in the case of the debate about the possibilities of using something similar to the land readjustment method in Brazil.

### Urban and institutional aspects in associated projects for urban development

Nilza Maria Toledo Antenor<sup>15</sup>

I would like to make a few comments comparing the urban policy instruments addressed in this workshop with those established in São Paulo's Strategic Master Plan. It must initially be underscored that only after the Federal Constitution of 1988 did the city become an autonomous entity of the federation for urban development control making it obligatory for every city with more than 20 thousand inhabitants to elaborate a master plan. On the other hand, the same constitution left the regulation of the clauses in the urban development policy chapter up to specific federal law. In 2001, the Statute of the City (Federal Law 10.257) was approved, which established the minimum content for the master plan, giving every city in the federation until October 2006 for its elaboration.

An important aspect of the Statute of the City is that it began to demand the obligatory delimitation of the areas for applying urban policy instruments in the director plan: land parceling, building or compulsory use conditioned upon the existence of infrastructure and demand for use; the right to preemption; joint urban operations; onerous grant to the right to build over the basic utilization coefficient and the change of use; transfer of the right to build; among others.

São Paulo's Strategic Master Plan, approved in 2002, instituted the Urban Development Fund – Fundurb as a means to manage extra-budgetary resources from the application of urban policy instruments, and the areas for urban intervention – AIU, where all of the urban policy instruments foreseen in the Statute of the City can be applied. The purposes of the AIU are: land regularization; execution of social interest housing programs and projects; constitution of a land reserve; ordering and directing urban expansion; installation of urban and community equipment; creation of public leisure spaces and green areas; creation of protected areas or the protection of other areas of environmental interest. Also according to the PDE, the AIUs include: areas for joint urban operation; areas destined for strategic projects; areas destined for installing linear parks; installation and dynamization of central areas, especially those along high capacity transportation networks. The PDE also establishes the areas where the additional right to build is applied by means of a financial counterpart to be paid by the beneficiaries. For such, it divides the city in two macro zones, the Macro Zone for Urban Structuring and Qualification and the Macro Zone for Environmental

Protection. In the Macro Zone for Urban Structuring and Qualification, a stock of constructed areas for residential and non-residential use is established according to existing infrastructure capacity in each of the 96 municipal districts as an instrument to control the right to additional construction above the basic utilization coefficient and reaching the maximum permitted by law, through an onerous grant. The onerous grant does not apply to the Macro Zone for Environmental Protection since the activities are to protect and preserve the environment.

However, it is important to underscore that the onerous right is calculated from the fair market value shown in the Urban Property and Building Tax – IPTU, which is less than property value in the real estate market, which facilitates application of this instrument for the interested party as well as City Hall. This is the value obtained by the city and destined to Fundurb to be applied to the public transportation network, the expansion of green areas, urban and community equipment, the production of social interest housing and land regularization, with a redistributive function within the city territory. However, it must be underscored that in a joint urban operation area there is a specific fund for each perimeter. The urban transformations and the set of interventions and works are established for each perimeter of the operation through a specific law. The resources are anticipated in a gradual manner by public authorities through the sale of Cepac securities – Certificates for Additional Construction Potential at an auction on the stock exchange in order to control execution of the works established for the operation's perimeter. While these securities are not used, they can be freely traded, becoming an innovative instrument in public policy.

Another important instrument for achieving the goals foreseen in the master plan is the transfer of the right to build, which similar to the one used by Ippuc in Curitiba, is destined for restoring heritage under trust and the installation of linear parks. In this case, when the areas necessary for integration to the park are donated to the city, the landowner can transfer the right to build to a 200m wide section, outside the alluvial plain *non aedificandi* of both banks of the stream along which the park will be installed. Another similarity in relation to Curitiba's Ippuc is the anticipation of resources through the sale of Cepacs in the urban operation perimeter with the commercialization of quotas (mentioned by Ippuc architect, Angela Dias Bertolini) destined for the restoration of public buildings as well as the installation of a linear park. But in Curitiba, what calls our attention is that these actions are preceded by the elaboration of a project with a cost estimate, which is transformed into the quotas required for carrying out the works. Only after conclusion of these works is a new project launched, with new quotas. Therefore, there is a market reserve in the sense of gathering the necessary funds for each project to make the work feasible. This ensures the works will be installed within the deadline estimated by the responsible entity. This is a very interesting strategic action. In the city of São Paulo, the different urban policy instruments (sale of the onerous right to addition construction, Cepacs and the transfer of construction potential between private landowners) are available for the real estate market and compete with each other. In other words, in São Paulo, the multiplicity of actions and the basket of offers of several instruments generate competitiveness between the instruments.

What called out attention in the presentations in this seminar is the management of real estate evaluation registries, which is centralized in Colombia and in Curitiba it is the responsibility of only one body that evaluates and manages the real estate that is the object of expropriation. In São Paulo, there are several bodies that evaluate the properties subject to expropriation, depending on the body responsible for the work. This seems relevant to us because it permits the definition of evaluation parameters and criteria for the various interventions carried out in the city.

It is also important to underscore the existing instrument that resembles land readjustment in São Paulo. It is the real estate consortium insti-



tuted by the PDE and whose application was delimited in the Strategic Regional Plans – PREs in the Sub-City Halls of Sé and Lapa by Municipal law 13.885/2004. The guidelines and procedures for the PRE real estate pooling at Sé were established by the Santa Ifigênia urban intervention area, located in the Sé Sub-City Hall, downtown São Paulo, and within the perimeter of the Downtown Urban Operation.

The objective of the Santa Ifigênia AIU is to reurbanize through an urban design project, indicating the properties to be preserved and rehabilitated and those that should be regrouped, aimed at expanding residential use and the diversity of uses, including the promotion of urban actions for social inclusion and reduction in violence.

The law establishes procedures up to City Hall to promote urban transformations through bids, indicating the areas that are objects of urban design projects and permitting the Municipal Executive, through an adherence announcement, to convoke the landowners to participate in the new venture. The reference is the urban design project to be implemented, which aims at reducing expropriation costs. For such, the new project establishes the proportion of total construction potential in quotas of land per constructed area according to residential and non-residential use, and the costs for carrying out the necessary public works that will be incorporated to the final value for the quota for the constructed unit. The landowner interested in participating in the new venture will have the property evaluated in the situation prior to foreseen improvements in the urban design project and that were transformed into quotas and where the landowner can use them to participate in the future venture. After the time granted to landowners, the Municipal Executive, through a convocation, can receive proposals for the participation of tenants and developers who wish to acquire quotas for the future venture. It grants landowners who donate land for the installation of public institutional works the option to choose between the acquisition of quotas for the venture or for the transformation of real estate values donated in unused construction potential, which can be transferred to another property in receiving areas defined by the PDE.

The real estate pooling was also foreseen in the Lapa Sub-City Hall's Strategic Regional Plan, because there was the intention to create a new district. A public idea contest was held and to be able to implement the winning project it was necessary for the area encompassing the application of this instrument to be delimited in the downtown urban intervention along the subway line, linking Lapa's traditional downtown area to the Latin American Memorial Cultural Center. The real estate pooling was thus able to be used in empty areas belonging to few landowners who could adhere to the project. The form of participation set down by law always foresees the beginning of procedures through public authorities, following the same abovementioned steps for the Santa Ifigênia AIU. Perhaps one of the improvements we could introduce in this instrument, in São Paulo, as in experiences presented in this seminar, especially in Bogotá, is to also permit initiatives by the landowners so long as they obey the guidelines established by law.

Finally, we would like to mention an aspect of our zoning legislation that we are improving. That is the revision of the Land Parceling Law (Municipal Law 9413/1981) and the law that refers to residential complexes (Municipal Law 8881/1979), which were not altered by Municipal Law 13.881/2004. The land plotting law in effect establishes that lots larger than 10,000 m<sup>2</sup> located in the urban zone and lots larger than 20,000 m<sup>2</sup> located in industrial and rural zones that have not been plotted should donate public land through dismemberment or division into lots. However, Municipal Law 8881/1979 authorizes the construction of residential complexes in sections with areas greater than 20,000 m<sup>2</sup> and with more than 400 housing units without any demand for public area donations, permitting the installation of several developments destined to housing complexes in large areas. In these cases, only plotting restrictions are observed since no block can be more than 450 m long. This

generates development of around 90,000 m<sup>2</sup> destined to housing complexes that segregate an entire territory from a district, impede passages and create large obstacles for road grid continuity, making mobility in the city difficult. This situation indicates that the developer uses the entire maximum utilization coefficient permitted in the zone for use applied to the total area for the section if the district has the available stock for constructed residential area, paying for the grant to the right for additional construction. The alteration we are seeking in legislation guarantees continuity of the maximum utilization coefficient over the total area of the land, but we require compliance with land plotting for areas above 20,000 and under 40,000 m<sup>2</sup> and the donation of green and institutional areas, and for sections larger than 40,000 m<sup>2</sup> we demand the division into lots with the donation of public areas for road systems, green areas and areas for the construction of social equipment. We thus seek to recover collective public areas and improved mobility for the continuity of the road grid proportional to the increased density of these sections of land. These are some of the changes in land use and occupation legislation the Municipal Planning Secretariat of São Paulo – Sempla has been discussing with organized civil society and the technical community and that shall be sent to City Council next year.

### **Instrument or concept: agenda for research Pedro Manuel Rivaben de Sales<sup>16</sup>**

Land readjustment, land rearrangement, replotting. Regardless of the name given, the origin of this urban policy instrument dates back at least to the mid 19th Century when Barcelona's Eixample project by Ildefonso Cerda was elaborated and implemented.

So, more than a name or institutional or technical models to carry out an urban instrument, what perhaps is more interesting to recover and see are the reasons for its success in capitalist formations as different as 19th Century Barcelona or Japan from the 20th to the 21st Century and their derivations. If at the limit of this comment, nothing more than list them can be done, we cannot fail to be aware of the fact that these reasons fundamentally go back to the stock of land (stocked territory) and the mechanisms (including pre-capitalist) of its gathering or appropriation. And these, as with Marx, and later, Deleuze and Guattari showed, are done by comparison and translation: "Since the price (including the profit) is established from less productive (or equipped) lands, income captures the profit afferent to better (or better equipped) lands."

In other words, that is the principle of the formation of absolute income and differential income proposed by Marx: If the first is derived from the transformation of rural land into urban land and its monopolistic appropriation, the second results from the comparison between more or less equipped lands with the differential income supposing the absolute. And it is due to the necessarily for a common quantitative criterion for comparison "that land is at the outset of a striation, proceeding through geometry, symmetry, comparison" (Deleuze, Guattari, 1997).

Therefore, it is at the cross-section of two lines – urban economy (comparison and capture) and urbanism (land design) – that the conceptual and operative bases of the instrument under discussion merge. Regardless, an itinerary for researching and developing this topic, aware of the mapping of standards and vectors for valorizing the contemporary city, would certainly include the role the design of urban land has in the configuration of the urban format, and as a consequence, in achieving more democratic social and territorial objectives.