

LAND USE REGULATION

The objective of land use regulation, for a local government, should be to democratize the access to urban land and to increase people's life quality.

Land use regulation is basic for urban life. It rules the buildings, defines what can be done in each private land parcel, and influences the city's form as well as its economy.

However, it traditionally consists of a group of complex rules, difficult to understand and to practice, hardly accessible to the people.

The great level of detailing makes controlling almost impossible, and leaves a major part of the population in an illegal situation. Besides, its economic impact is rarely clear in what concerns the distribution of opportunities in real estate development.

In many cities, land use regulation is a puzzle, which very few people really knows and is often used to benefit private interests. Due to opportunism, corruption or ignorance, it is changed on a case by case basis, with no care about its totality. The result is an increasingly complex and abstract legislation, which magnifies the city's unevenness.

A local government compromised with the construction of citizenship and quality of life can't

afford to have such a perverse land use legislation, risking to see the increasing of social unevenness, while real estate capital defines the city's fate.

■ TRADITIONAL CONCEPTS

The main legal-politic instrument in urban management is the Master Plan, which defines the general urban directives. Traditionally, these directives include rules for density-increasing, urban expansion, zoning and infrastructure construction. For most cities, however, the Master Plan – if existing at all – is not followed. It is often just a technical document, distant of the city's reality, existing only to attend legal requirements. Sometimes it is even ignored.

Traditionally, the land use legislation focuses in technical norms to regulate building activities and in the city's zoning. The building norms aim to establish hairsplitting parameters for any aspect of the building, including both its relation to the surroundings (minimum distances between buildings and streets or neighbors, number of floors, height-limits) and its intern plan (exposure to sun, ventilation, room's size). The near impossibility of managing all the details required by the legislation often pushes most of the buildings into illegality.

Zoning is a concept based on the idea of defining the permitted uses to each part of the city. The goal is to avoid undesired relations. The city is divided in industrial, commercial, residential, institutional and mixed (which combine different uses) zones. In some cases, this zoning includes many smaller zones for each one of the established zones. These zones are normally distinguished by different density patterns (through

the definition of a maximum number of floors or built area).

The determination of possible uses accords often to already existing uses, meaning that the law just reaffirms them. In this case, its function is to legitimate the built space, independently of the dynamic – even if perverse and excluding – which defines the occupation.

Zoning has a direct impact on real estate markets, leading to the constitution of land monopolies for certain uses. For example: if there is just one place where retail activities are allowed, these areas will be overpriced. Restrictions of zoning can turn some enterprises impracticable, or avoid the development of certain economic activities.

Having all this impact over land markets, and being so technicist and detailed, almost impenetrable for outsiders, the transformation of zoning in bargain-currency is far too easy. Real estate developers, interested in changing the zoning in a certain area, are often eager to pay large sums for that.

Besides, this system magnifies the social segregation: the rich tend to settle in areas regulated in a restricted way (usually residential, high-class, quiet zones, with minimum parcel-sizes and low-density standards, what unviabilizes low income housing). The areas reserved to the poor have a zoning that viabilizes low-cost housing, but don't assure a good and sound environment. Worsening the situation, local governments tend to control more efficiently the richer neighborhoods, preserving its well-off shape. Poorer areas almost don't get controlled, and its settling and building's standards are far from acceptable, due to the high needs and few possibilities of its inhabitants.

All these problems don't mean that it is better not to have an urban land use legislation. Without any regulation, free market stimulates the

reproduction of the most lucrative land uses, leading to serious losses in life quality, and reducing the opportunities of access to good-quality urban land and citizenship to the poor.

■ NEW TENDENCIES

Due to the limits of traditional land regulation and control instruments, new approaches of the regulation of land use are being practiced. These are based on three main parameters:

Rupture with the traditional approach to the city, fragmented in specialized zones. That means discarding the concept of the city as a

“machine to live and work in”, where each area has clearly defined uses. This idea gives place to the valorization of humanist aspects, specially the neighborhood relations, understanding the city as a space of citizenship and social contact.

Legislation's simplification. That means the search for structuring simple instruments of regulation. The point is to build a legislation that expresses its objectives, searches the democratization of land access and tries to avoid over-regulation in secondary subjects (specially concerning building norms).

Mechanisms for social appropriation of urbanization's benefits. Leaving an over-detailed

regulation (for example, square-by-square zoning, definition of heights of windows or mailboxes), the idea is the search of instruments to ensure the preservation of public rights. In practical terms, this means to embrace mechanisms through which real estate developers are responsible for finding solutions to minimize the impacts produced by building. Examples: charges for the right of building, duty to build streets or noise isolation, definition of areas liable or not to densification (to the better use of urban infrastructure). Low-income buildings and some desired job-generating activities could be released of charging.

WHAT TO DO?

The rethinking of land use legislation should be understood as a complex process, requiring careful planning and management.

Experiences tell us the involvement of all sectors of the society is fundamental: a master plan or any other urban legislation instrument, if not discussed with the society, find seldom political support for its regulation and implementation. Society's involvement is desirable since the first steps of diagnosis and evaluation of the existing legislation. In this stage, it is interesting to do a survey of inconvenient uses in the city: buildings,

floods, collapses, pollution, noise, etc.

Once this done, the scale of the restructuring of the legislation should be defined. It almost always starts with the elaboration

of a master plan (or its revision), defining urban guidelines to the development of the city. The revision of the master plan should stimulate low and middle-class housing sup-

ply. It should contain a land policy, which faces the speculation with underused land in areas where a density increase is desired, or hinders settling in other areas (for environmental reasons, or to avoid saturation of infrastructure use). For many cities, it is necessary to promote the legalization of low-income settlements.

Based on the goals and directives of the master plan, a detailing of the urban land use legislation should be done. Formally, the master plan can enclose its own land use legislation, being self-applicable.

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