

CONDITIONS FOR VIABLE FULL LAND TENURE REGULARIZATION: A PROBLEMATIZATION BASED ON THE EXPERIENCE OF JUIZ DE FORA (MG)

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Abstract

With a theoretical-practical approach, empirically based on experience in the municipality of Juiz de Fora, in the state of Minas Gerais, through actions of land tenure regularization, this paper, in a contextualized manner, seeks to reflect on the design, process and “post-intervention” moment of the regularization of low-income urban settlements. Although it was assessed that the investigated experience failed to meet the concept of full land tenure regularization, the study was nonetheless able to identify a number of assumptions and lessons that emerged, through which it has been possible to propose some relevant guidelines in order to revise the concept and practices under discussion. Special attention has been given to the beneficiaries of the regularization process, thereby contrasting the recurrent view that they are mere “partners” with the perspective that places them rather as protagonists in the process.

Keywords

Full land tenure regularization; Urban land regularization; Low-income settlements; Public policy assessment; Land tenure regularization of social interest.

CONDIÇÕES DE VIABILIDADE PARA A REGULARIZAÇÃO FUNDIÁRIA PLENA: UMA PROBLEMATIZAÇÃO A PARTIR DA EXPERIÊNCIA DE JUIZ DE FORA (MG)

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Resumo

A partir de uma abordagem de cunho teórico-prático, cuja empiria se baseia na experiência do município de Juiz de Fora (MG) com ações de regularização fundiária, o artigo busca refletir, de maneira contextualizada, sobre o desenho, o processo e o momento “pós-intervenção” da regularização de assentamentos urbanos de baixa renda. Apesar de avaliar que a experiência estudada ficou aquém do atendimento do conceito de regularização fundiária plena, o trabalho sistematiza pressupostos e lições que dela emergiram, propondo algumas balizas para a atualização do conceito e das práticas em questão. É dada atenção especial aos beneficiários da regularização, contrastando a visão recorrente de que eles são meros “parceiros” com a perspectiva que os situa como protagonistas do processo.

Palavras-chave

Regularização fundiária plena; Regularização fundiária urbana; Assentamentos de baixa renda; Avaliação de política pública; Regularização fundiária de interesse social.

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Introduction

The field of studies on processes of urban land tenure regularization in Brazil has grown, and because of this, has provided multiple understandings with regard to the subject. At least three main viewpoints, each emphasizing one particular aspect, may be identified. The first characterizes land tenure regularization only as titling plots of land, ownership regularization or property regularization. The second focuses on the urban recovery of a settlement through urbanization of the area. In the third, the major concern is the urban regularization of settlements (ALFONSIN, 2007). Seeking to integrate these three aspects, the concept of *full land tenure regularization* was conceived:

Land regularization is a process conducted in a partnership between the public authority and the beneficiary population, involving the legal, urban and social dimensions of an intervention that, primarily, aims to legalize the permanence of residents in irregularly occupied urban areas for housing purposes and, additionally, promotes improvements in the urban environment and in the quality of life of the settlement, as well as encouraging the full exercise of citizenship by the subject community of the project (ALFONSIN, 2007, p.78).¹

In addition to the legal, physical-social and urban dimensions, with the enactment of Federal Law No. 11,977, in 2009, a further dimension was announced:

1. This and all non-English citations hereafter have been translated by the translator, Brian S. Honeyball.

the environmental dimension. This signified that the concept of full land tenure regularization was revised. Article 46² of the aforementioned law established that

land tenure regularization consists[ed] of a set of *legal, urban, environmental* and *social* measures that address[ed] the regularization of irregular settlements and the provision of titles to their occupants, in order to guarantee the full social right to housing, the full development of the social functions of urban property and the right to an ecologically balanced environment (BRASIL, 2009, our emphasis).

Thus, full land tenure regularization policies, conceived through a multidimensional notion, represent one of the main institutional ventures in the sense of helping to mitigate the problem of socio-territorial segregation and access to urbanized land in Brazilian cities.

One characteristic commonly linked to land tenure regularization is related to the idea of - viewing it as a “civilizing mission”. Here, regularization is interpreted as an instrument which is capable of enabling low-income settlements, which much of the specialized literature classifies as “informal”, to function according to the rules of the so-called formal or “asphalt” city.³ Such an approach fails to realize the potential of these areas, their specific characteristics and their particular structure, which may also prove to be virtues, and not merely deficiencies. Thus, contrary to the perspective of the “civilizing mission”, in the present work, we take as our starting point the theoretical basis built by authors such as Ananya Roy (2005; 2011), Janice Perlman (1977), Boaventura de Sousa Santos (1996) and Ana Clara Torres Ribeiro (2005), complemented by other academics who have been cited and linked throughout the text, in order to help broaden the reflection on the concepts and practices that mark land tenure regularization in Brazil.

Ananya Roy (2005) emphasized the temporality and spatiality of formal and informal boundaries. She asserted that the threshold is flexible and comprises objects of dispute, political arrangements and arbitrariness. Informality encompasses the urban world as a whole and, as a result, must be recognized as a political category, especially because the definition of informal depends on the capacity and modality of state regulation. Roy (2011) further argues that informality,

2. Article revoked by Federal Law No. 13,465, from 2017, but is still considered in this article, given its current and relevant nature in conceptual terms.

3. In the text, double quotation marks indicate both the direct citations of authors and documents and common-sense expressions or general terminology. The context in which they are used determines the meaning to the reader.

rather than being understood as a synonym for poverty, should be considered as a logic from which spatial value is produced and managed. In order to break with the idea of subalternity and understand the heterogeneity of urbanism, she proposes the concept of gray spaces; spaces that are neither integrated into the city (white spaces), nor excluded from it (black spaces), marking the pseudo-permanence of these areas in the marginality. Yiftachel (2011, p. 153) explains that “The identification of ‘gray spacing’ as a ceaseless process of ‘producing’ social relations, bypasses the false modernist dichotomy between ‘legal’ and ‘criminal’, ‘oppressed’ and ‘subordinated’, ‘fixed’ and ‘temporary’” – polarizations, as yet not overcome.

Low-income settlements, throughout their consolidation process, have received social and political labels imposed by the hegemonic classes, and economic interests have reinforced prejudices: “What was considered ‘mainstream’ and what was considered ‘marginal’ has come to be determined less by what is done by the numerical majority or minority, and more by what is done specifically by the middle and upper classes” (PERLMAN, 1977, p.124-125).⁴ According to the architectural-ecological school, as expounded by Perlman, marginality is understood as something to be materially eradicated, via the removal of low-income settlements and the construction of adequate housing by the government. By embarking along this path, the poor would overcome their condition of poverty – both economic and cultural – and would be integrated into the wider society, thereby starting to enjoy the rights and obligations arising from their new status. Such a model of interpretation and intervention in favelas proved to be unsustainable from several angles, since it revealed, among other aspects, the enormous complexities of the proposed urban surgeries, together with the meager results in reducing the number of favela residents, just to offer two of the most immediate examples. The solutions given by the populations themselves were the transfer of apartments in the housing complexes, to remain with land occupations and to return to the favelas and back to the life of so-called informality, in the gray spaces, challenging the order of dominance and exclusion. Criticism of the theory of marginality, as inferred from Perlman’s work, calls into question the notion of social integration, which is very present in the specialized literature on the theme of land tenure regularization.

The polarization between the formal and the informal, the included and the excluded, has also been criticized by other authors. Boaventura de Sousa Santos (1996) presented a socio-legal approach based on the concept of legal

4. N.B. For this direct citation the English version was used of PERLMAN, J. E. *The Myth of Marginality*. Berkeley, California: University of California Press, 1976, p. 92.

pluralism, which takes the various forms of law as social maps capable of different representations. In this theoretical bias, the issue of formality is no longer the target of a single rule, and is seen from different rules on different scales.

Corroborating this idea, albeit from another angle, Ana Clara Torres Ribeiro (2005) considered the use of the term informal as being inadequate to classify resistant forms or alternatives to the dominant way of urban life. According to Ribeiro, informal carries a negative idea that may make it difficult to understand the city as a field of possibilities. “The forms of society, as well as the forms of the city, are creations from which, previously non-existent new possibilities, once deprived of meaning, appear” (GIRALDO, 2003 apud RIBEIRO, 2005, p. 28).

In the present article, we have avoided simplifying polarizations between formal and informal, regular and irregular, included and excluded. We work with the premise that the entire city represents an incessant process of production and exchange of asymmetric territorialities, whereby regularization does not play the role of converting one into the other, but rather of producing synergies between them.

Following this narrative, the process of land tenure regularization is not taken as that which will necessarily adapt a settlement into a formal city, and legality. What is considered formal, or legal, has varied over the years and throughout social, political and economic contexts. Moreover, these variations are not just a question of focus (or a matter of greater or lesser specification), but also of content, since a rule in force today may be totally antagonistic to that which preceded it. Raquel Rolnik (1997) stated that irregularity does not refer to a particular spatial configuration, but rather to multiple configurations, all coexisting in cities. This is due to the existence of different types of irregularities in the legal-urban configuration, and the fact that legal norms may, in practice, have different meanings for social agents, depending on the political and cultural conditions that dictate the construction of their thinking (ROLNIK, 1997).

Over time, laws are subject to changes, and this is one of the motives that has compelled the studies consolidated in this article, the main aim of which is to signal possible corrections throughout the course of implementing similar initiatives, as well as to reflect, on a larger scale, on the replication of programs guided by the concept of full land tenure regularization. To support this reflection, a theoretical-practical methodological approach was considered, since assessing previously implemented processes of land tenure regularization may provide indications of possible paths that may be followed or avoided when designing similar programs.

The article begins with a brief literature review, and then advances to the empirical study, culminating in a determined critical reflection on the concept of

full land tenure regularization. Within the empirical section, which consists of assessing the process of implementing the land tenure regularization policy and its possible impacts on the benefited areas, we have used the results of a research conducted between 2018 and 2019 in the settlements called *Vila Sô Neném*, *Vila Mello Reis* and *Alto Santo Antônio*, all located in the city of Juiz de Fora, in the southeastern Brazilian state of Minas Gerais.

This research has included interviews and focus groups with technicians from the city hall and from the engineering company tendered to carry out the regularization project, and with residents from the settlements, in addition to documentary surveys in the public archives.⁵ The three settlements were selected so as to include urban regions in the municipality with the highest levels of vulnerability and the greatest number of Areas of Special Social Interest. The ease of access for participants in the regularization process and public files was also taken into account. Numerically, a total of 27 participants were involved in the study, 63% of whom were residents from the settlements, 18.5% were members of the neighborhood association, 15% were technicians from the city hall, and 3.5% were engineers connected to the process. After completing the field data collection and transcribing the collected material, themes mentioned by the participants were listed. The analysis presented in this article was constructed from this point (GRANJA, 2019).

1. News brief on the experience of land tenure regularization in Juiz de Fora

The municipality of Juiz de Fora revealed a scenario that highlights the importance of pioneering experiences for consolidating urban actions and policies. In 1985, when the regularization experience finished in Vila Olavo Costa, a low-income area of the city, the Subdivision Regularization Coordination Center (known in Portuguese as CORE) was created. CORE carried out similar interventions in Juiz de Fora, consolidating and improving its actions until it was replaced by other administrative structures. This fact refers to the process of consolidating urban instruments in the national urban policy. Many of the land tenure regularization

5. The main documentary surveys: JUIZ DE FORA, City Hall. Process No. 000278 - EMCASA regularization of existing occupations at the end of Rua Milton de Araújo Campos, Alto Santo Antônio. Brazil: [s.n.], 2010; Process No. 004345 - V1 - Action for special collective usucaption of urban property proposed by the residents association in Vila Sô Neném in Juiz de Fora and by the Municipality of Juiz de Fora. [s.l.: s.n.], 2002a.; Process No. 004345 - V2 - Action for special collective usucaption of urban property proposed by the residents association of Vila Sô Neném in Juiz de Fora and by the Municipality of Juiz de Fora. Juiz de Fora: [s.n.], 2002b.; Process No. 01658 - Environmental Licensing - Vila Sô Neném Programa Habitar Brasil [Housing Project]. Brazil: Juiz de Fora, 2002.; and Process no. 02533 - V2 - Law no. 9206 - Provides for the concession of the resolvable right of way in public areas included in the Vila Mello Reis subdivision in the Santa Cruz district. Juiz de Fora: [s.n.], 1984.

instruments that have been implemented in Brazil since the 1980s, before being the object of federal legislation, were the target of pioneering experiences in municipalities that, having been considered successful, spread nationally or internationally. One example of this would be the pioneering experience of the Regularization Plan for the Special Zones of Social Interest (PREZEIS), consolidated in Recife, in 1983, with Law No. 14,511. This experience introduced the urbanistic instrument of Special Zones of Social Interest (ZEIS), an instrument that has been adopted nationally for at least two decades.

Although the studied experiences were located in a municipality which, as early as 1986, had a coordinating body dedicated to regularization, during a long period of time, regularization actions were not directly linked to the central urban planning agency. The land regularization policy was implemented by the Regional Housing Company (EMCASA), where action planning was not given priority; hence, regularization was conducted either through emergency measures or in response to “political requests”. This fact would suggest that land tenure regularization in Juiz de Fora may have been encompassed by clientelistic relationships, calling into question the aim of guaranteeing collective urban and territorial rights.

Of the cases studied in this municipality, two were the target of a larger regularization program financed by international organizations. Hence, the demands for funding required an intervention that involved infrastructure, land titling and environmental and social actions. Only in Vila Sô Neném were all these components included in the regularization project; nonetheless, even this settlement could not be considered as an experience of full land tenure regularization, i.e., one that effectively contemplated the four essential dimensions mentioned in the introduction to this text, since the urban and building regularization processes had not taken place.

The complication in completing the interventions initially stems from a difficulty in allocating resources for this purpose, accompanied by the low number of technicians from the municipal government dedicated to working on the issue. As if this were not sufficient, the devalorization of the planning sector vis-à-vis the works sector is another relevant aspect that has often hindered the correct allocation of efforts and resources. Problems such as these are common in city halls, nevertheless, even in the face of so many obstacles, land tenure regularization actions are still carried out. Thus, city halls achieve what is within their reach, within their structural, administrative and political limitations. It should also be further highlighted that, on occasions, the difficulty lies in actually understanding what land regularization is. As revealed by residents and some of the city hall technicians, it is commonly understood that regularization only addresses the

legal/ownership dimension. The idea of - full land tenure regularization, with its four linked dimensions, is not therefore an understanding rooted in and applied to this experience. Moreover, there is also evidence that this occurs in other Brazilian municipalities. In a research project applied on a national scale, between 2016 and 2018, coordinated by one of the authors of this article, samples were collected of the municipal legislation on urban land tenure regularization currently in force in all Brazilian states. The samples attested to the disjointed understanding regarding the dimensions of land tenure regularization. The work of Antão (2017) is an example of this.

The empirical research revealed both the particularities of the settlements where regularization occurred as well as the various initiatives promoted by the city with regard to the situation. Each was regularized through specific legal instruments and effectively contemplated different dimensions of land tenure regularization. The process experienced by the first settlement, Vila Sô Neném, located towards the east of the municipality, was close to what is understood as full land tenure regularization, which began in 2002 and ended in 2007, plus a further two years of monitoring the actions. In the case of Vila Sô Neném, the instrument of collective usucaption was applied to a total of 223 households. The second settlement, Vila Mello Reis, an area to the north of Juiz de Fora, was based on a titling process through the Real Right of Use Concession (CDRU) in an individual format for a total of 209 households. This process began in 1986 and concluded in 2008, with the registered CDRU title being handed over to residents. Finally, the last settlement, Alto Santo Antônio, located in the southeast region of the municipality and with a total of 290 households, between 2000 and 2007, received infrastructure projects and works, although the residents did not receive their titles.⁶

2. Refining the understanding of land title regularization, in line with its 'full' conception

In this study we have worked with the understanding that the land tenure regularization process has the copious potential to impact housing conditions positively, thereby fulfilling the interests of the residents in the benefited settlement, who, from a conceptual perspective, typically figure as the main subjects of regularization. However, this process may not be considered, in advance, as an intervention that will produce a positive impact or generate political prominence.

6. Information on the number of households for each settlement was based on 2006 data, provided by the Planning Department of the municipality of Juiz de Fora in May 2018. Such numbers only appear to be somewhat outdated in Alto Santo Antônio, where the area has clearly grown beyond the official numbers.

This depends on countless variables that intervene in the specific case in question, from which it is possible to assess whether its effects are either beneficial or harmful in guaranteeing the low-income population adequate housing and access to urbanized, regularized land (MAGALHÃES, 2019). Thus, we have realized that not all stages have the same level of relevance and that the most positive impacts have arisen from the provision of infrastructure and services. It is known that, on a national level, in many cases, there has been an increase in the cost of living in regularized settlements.

One example that illustrates the above statement is a study by Mello and Cunha (2011), in which they discuss the effects of implanting a Pacifying Police Unit (UPP)⁷ in the Santa Marta favela, in Rio de Janeiro, as well as the interventions promoted as a result of establishing an Urban and Social Guidance Center (POUSO)⁸ in the same area. It should be mentioned that the provision of these services and the actions of regulation and inspection of works were responsible for causing several conflicts between residents and the government. This occurred due to the need to adapt to a new reality and internalize the rules, since the process required residents to adapt to a series of economic, political and moral obligations.

In contrast to the example above, in the cases studied in Juiz de Fora, the social tariffs provided for in Federal Law No. 10,257⁹ were applied and the cost of maintaining the properties, apparently, did not increase in significant proportions. When this cost does not increase, the positive impacts of the regularization process are potentialized, because it is economically viable for the original population to remain in the area, avoiding what some consider to be expulsion by the market.

The titling process is the most controversial step. Although case studies have indicated its importance in times of conflict, it is unable to provide security of ownership per se. Numerous situations are known in which low-income settlements have suffered forced eviction, even though the beneficiaries of regularization had received the appropriate legal land titles. One of the most recent expressive examples of this was in Vila Autódromo, a low-income settlement in the city of Rio de Janeiro, where the eradication operation gained worldwide repercussion since it transpired within the context of the preparatory works for the 2016 Rio Olympics. This case, along with others, suggests that titling cannot be considered

7. A law enforcement and social services program pioneered in the state of Rio de Janeiro, which aims to reclaim territories, most commonly favelas, controlled by gangs of drug dealers.

8. To provide on-site technical support to ensure safety, and introduce building regulations in the favelas.

9. Article 47 of Law No. 10,257 states that "Taxes on urban properties, as well as tariffs related to urban public services, will be differentiated according to the social interest" (BRASIL, 2001).

as an equivalent of security of tenure, as it depends on a series of conditions and measures, over and above titling, as indicated by Rolnik (2015, p. 211-219).

Titling is a relevant, although insufficient, component of the goal to increase security of tenure – a goal understood as being essential to the notion of land tenure regularization, especially that which is intended to be ‘full’. In addition to the case studies, this understanding has also been built from the abovementioned theoretical references. Boaventura de Sousa Santos (1988) demonstrated that the inhabitants themselves conduct infrastructural improvements in the settlements as a strategy to consolidate them – a perception widely present in the literature on favelas produced throughout the twentieth century. Clichevsky (2003) explored the fact that housing improvements are commonly carried out by residents regardless of the titling process. Durand-Lasserve and Clerc (1996) and Edésio Fernandes (2005; 2007) stated – and we would ratify the idea – that, in order for them to actually constitute a stage in promoting social change, it is essential that land tenure regularization programs are associated with a broader set of public policies, planning guidelines and urban management strategies. Edésio Fernandes (2005) reported that, in Latin America and in countries from other regions, regularization programs that were generally based on issuing individual property titles, have not been fully implemented, i.e., they did not comply with all the stages of full land tenure regularization. In short, it may be asserted that titling is part of the process (as a whole and in its objective of increasing security of tenure), and thereby, should always be understood as such.

In any case, it is necessary to demarcate the importance of titling: first, because of its symbolic character of socially legitimatizing the housing situation in regularized settlements; second, because of facilitating access to urban services and the use of legal instruments that increase the chances of residents to stay in the area, providing them with additional tools to resist threats (at least for some of them!). Thus, the conferred title provides greater legal protection in relation to the transfer of ownership, particularly of that occurring through inheritance, a fundamental point in the sociability of the popular classes (WEBER, 2012).¹⁰ Some of these broad functions could – and even should – also be worked on through the urban dimension, on a par to that observed in obtaining the “*inhabit-se*” [occupation] certificate and in officializing the address, ensuing, respectively, from recognition of the buildings and public surroundings (crucial moments in the urban dimension of regularization). With regard to increased security of tenure, it seems clear to us that constituting the settlement as a Special Zone of Social

10. This is not just about these classes, and is relatively shared by other social segments.

Interest (ZEIS) - associated with the definition of land use and occupation norms that favor the typical ways of using the land of the popular classes and, ultimately, the tangible measures of territorial management to be adopted by the municipality – is as important as the titling model to be adopted.

With regard to these very points, we have identified two examples. Vila Sô Neném is a titled area in which residents still need to turn to the municipal administration in order to obtain a declaration of address, through which they are then able access certain services. In Alto Santo Antônio on the other hand, residents have no title. When in the interest of the municipal administration of this area, a declaration of address and of beginning the regularization process has been issued so that residents could obtain access to urban services. With these experiences, it may be concluded that the title is not, in fact, strictly necessary to enable access to urban services, since this topic was resolved by administrative means in the studied cases, without depending on a property title or any other formal right to land. In the conceptual and normative scope,¹¹ such a dependent relationship has not been considered necessary for some time, and has even been fought against, as it represents a perspective that conditions urban rights to land rights, therefore, a vision of patrimonialism that is not harmonious with the conception of full land tenure regularization.

With reference to the necessity of avoiding the eviction of the settlement residents, this idea, in itself, expresses an intention to safeguard the use and occupation of the land in the object area of regularization. Currently, this protection emerges through the conscious decisions of administrative technicians, while the residents have little say on what they would like. In this article, based on the conducted empirical and theoretical studies, the definition of ZEIS has been identified as one possibility in which investments in favor of low-income residents remain focused on themselves, with the intention of warding off the pressures of the real estate market, which is another important facet of increasing security of tenure. With this territorial management instrument, the planning sector of each municipality could anticipate valorization processes and prepare specific legislation for the ZEIS, in order to minimize the negative effects of market forces on the regularization process.

11. This may be observed in countless Master Plans, municipal Organic Laws and State Constitutions that have been drawn up in Brazil since 1989. As an example, a sole paragraph of Art. 234 is transcribed from the Organic Law of the Municipality of Rio de Janeiro, 1990: “The provision of public services to the low-income community will not depend on recognition of the public surroundings and the urban or registered regularization of areas and their constructions”.

Titling should not be a limiting factor for the completion of land regularization processes, as observed in the examples studied. With a more refined understanding of the meaning and impacts of the regularization processes, the municipal administration could rationalize and better direct its efforts during the titling stage, thereby maximizing its positive and direct results on the residents of the benefited settlement, as well as on the service of the other dimensions of regularization – i.e., physical, social and environmental, depending on the specificities of the area. It would seem clear that implementing the full land tenure regularization model not only requires refining the understanding of its legal/ownership dimension but the equilibrium and true integration between the last and the other abovementioned dimensions.

The refinement advocated here consists more in adapting existing tools than in creating new mechanisms entirely “from scratch”. This adaptation requires the recognition of agents and management practices and territorial regulation previously adopted in the settlement, as has been advocated in a number of studies, such as Magalhães (2013), Rolnik (2015) and Soto (2001). It also requires a review of municipal procedures and norms, including procedures involving dialogue with residents, culminating in a profound change in the way urban reality is dealt with in the scope of public policies.

Based on the points raised thus far and inspired by the study assessing the Brazilian experience on upgrading favelas and land tenure regularization developed by the Brazilian Institute of Municipal Administration (IBAM, 2002), in the following section, the lessons, or lessons learned, extracted from the Juiz de Fora case are systematized, so that land tenure regularization processes may be continuously improved in all dimensions, in order to seek successive approximations in relation to its utopian ideal represented by the concept of full regularization.

3. The preparation and implementation of the land tenure regularization policy

The land tenure regularization process starts long before the field actions begin in any given low-income settlement. First, a political, economic and social context is necessary, which is favorable towards incorporating this policy into the municipal priorities, followed by the policy design – which may be completed through a regularization plan – and the consequent elaboration of legislation to discipline the regularization process. Second, this context needs to remain favorable so that implementing the elaborated regularization policy has resources (budgetary, human, logistical, regulatory, etc.), and actually gets under way and is sustainable over time - an indispensable element so that the actions produce the desired effects.

However, the term “favorable” by itself signifies very little, enabling us to ask: “favorable to whom?” In other words, this implies asking where the social subject of land tenure regularization is placed. Here we return to our theoretical framework, particularly the works by Santos (1996) and Ribeiro (2005). Both emphasize the need to pose this kind of question in the face of all kinds of conflict for the right to the city, reminding us, at all times, that there is no social process without a subject and that within this item lies the explanatory key to the most essential dilemmas faced in various urban scenarios, such as that demarcated by land tenure regularization. Indeed, in several Brazilian municipalities, land regularization only ever entered the public agenda due to the struggles of the residents’ movements against forced evictions from the late 1960s, whose corollary was the demand for alternative measures that recognized self-produced popular housing (SANTOS, 1981). In short, it is a question of asking, at each stage of the regularization, what role performed by the residents of the settlements should be achieved by this type of measure, as well as by their respective collective organizations. This point will be taken up throughout the article.

Here, an effort is made to list and analyze various political, institutional, technical and social characteristics surrounding regularization, with a view to identifying the main factors that would demarcate a “favorable” context for it. Such characteristics are briefly systematized in this section in the form of assumptions, constituting points that, according to our perception, should be taken into account when planning, preparing and conducting land regularization processes. It is a list of assumptions, all of which were inspired by direct experiences with our object of study.

To begin, some political assumptions are examined. The first consists of the idea of breaking the “public works” dynamic commonly present in municipal administrations. By this, we mean that, in reference not only to land tenure regularization, but also to urban policy in general, the planning sector must assume a preponderant role in relation to the works, in order to prevent territorial interventions from occurring in a casuistry manner, with clientelism or other distortions that may arise from the centrality of the department in charge of the core activity. Despite the preponderance of the planning sector, the relationship between it and the others must take place through horizontal cooperative links, in which the bodies responsible for urban planning, works, titles, etc. talk to one another, creating favorable conditions for a process of full land tenure regularization.

As a second political assumption, we introduce an issue involving the institutionalization of land tenure regularization. It may be understood as enrooting this intervention into the political, administrative, budgetary and regulatory spheres, in order to ensure its continuity, i.e., to ensure that projects are carried

out in all their stages and have some probability of meeting the concept of full land tenure regularization. It is true that political-administrative alternation is an inevitable, inherent contingency in the democratic regime. The problem, however, resides in the fact that regularization actions often come up against administrative disruptions that compromise the quality of interventions, thus undergoing restructuring processes that affect the areas in the midst of regularization actions - an aspect that may ultimately thwart investments already made and medium or long-term efforts.

Lastly, we consider it important for municipal administration to establish supportive relationships and partnerships with agents of the so-called civil society, especially with organized segments of the population. The public authorities are not capable of conducting a full land tenure regularization process by themselves. In addition to civil organizations, in which public authorities may support or collaborate with them, residents of areas to be regularized must always be recognized as subjects of law and the main beneficiaries of this intervention, therefore, they are an indispensable, essential part of regularization. It must be emphasized that residents do not necessarily constitute a unit of interests, which requires recognition of their internal diversity of expectations and needs.

Similar to the political dimension, institutional issues also play a significant role. We indicate a set of institutional assumptions inherent to regularization. The first refers to the importance of adequate, well-implemented, transparent financial engineering. Municipal resources to promote a full land tenure regularization process are usually scarce. Thus, funding integrated with other programs is an important means of increasing the financial capacity to invest in these interventions, which, since they are public, should, as indicated above, seek to be transparent and of easy social control.

Intimately related to the preponderance that the planning sector must have in relation to the works sector is the second institutional assumption: projected resources for elaborating urban, environmental, architectural projects, etc. Project design is essential for proper intervention planning. Without this, it is common that the needs of the population are neither heard nor met, there is a waste of money and more time is taken to carry out and complete the actions. Project preparation is an obligation introduced since 2009 in the national land regularization legislation (and was maintained in the 2016/2017 reform). It is our understanding that this point is exceedingly consistent with the lessons learned from the Juiz de Fora experience.

The third assumption is also strongly linked to the previous: the availability of updated databases and information systems. Outdated databases are harmful to any intervention in urban territory. With regard to land tenure regularization, they are important, above all, to support the technical choices of the areas to be benefited

and to prepare projects. This assumption implies overcoming the wide margin of ignorance concerning low-income settlements that lingers around Brazilian public administration, from a historical viewpoint.

Managing so many institutional demands is not a simple mission, hence, the next institutional assumptions refer to the technical staff and management capacity. From the moment in which a shortage in the technical-administrative body of the municipal administration has been diagnosed, there is a need to adapt the allocation of human resources. It is common for the municipal administration not to have a technical body with sufficient members to conduct all the regularization tasks, especially full regularization. In this case, a decision has to be taken as to whether to strengthen the technical-administrative staff through direct contracting, through the various modalities in which this is possible, or to open bidding processes, in order to hire companies and/or non-governmental organizations to execute the regularization steps. On the one hand, reinforcing the technical-administrative staff may imply a greater burden in the long term, due to paying the salaries of more public employees, while hiring outsourced organizations allows for more precise, limited expenses, linked to delivering the regularization process. On the other hand, the decision to increase the number of technical staff may signify that the administration has greater alignment and control over the conduct of regularization, in addition to being a manner with which to generate internal structuring and training for the next actions, something that may interfere with the continuity of the process. Considering these aspects, all alternatives have both potential and hazards, as well as always requiring public managers to act in order to minimize problems. It should also be noted that, regardless of the management choices, the ability to manage projects that integrate many of the sectorial interventions is a fundamental requirement. Thus, human resources need to be continuously trained so as to work with different fronts and dimensions in a regularization intervention.

As may be observed, technical staff play a significant role in conducting regularization actions, hence the need to valorize them. We thus enter our first technical assumption. In the action planning process, decision-making regarding which areas will benefit, even though it has an impregnable political dimension, must be broadly supported by technical studies; for example, by assembling a prioritization matrix based on physical, socioeconomic criteria, etc., in order to avoid either arbitrary or purely electoral motivations.

The second technical assumption refers to a proper use of land tenure regularization instruments, of which there are many in Brazilian legislation, providing managers with a considerable range of options. Defining which of them will be applied in each case must always involve the population benefiting from

the regularization, in addition to seeking the least bureaucratic and the shortest possible time for the process.

Similarly, it is interesting to activate strategies that are capable of mobilizing and enhancing the existing, latent social capital within the communities. In the settlements studied, one of the experimented forms of mobilizing the population was for residents to be employed on the urbanization works. They also received training, which provided them with both income and job qualification. It was also speculated that those who build their own environments tend to value and care for their maintenance.

Once again, here, planning comes into play. Planning and feasibility of action come before legislation in land regularization. The territorial problems that regularization seeks to address are not resolved by the simple enactment of a law. For specific legislation to be elaborated for the settlement, it is necessary that, beforehand, time and financial resources are spent on studies in the area, which will increase the feasibility of application and the positive effects of the legislation itself on the development of the settlement and the municipality. Planning should also be part of the decision-making process for infrastructure elements. Low-cost solutions with high levels of durability in architectural and urban projects are important, however, low cost should not interfere with the quality of the works carried out. Often, as in the case of Vila Sô Neném, immediately after the works, several structural problems emerge due to the use of low-quality materials, and it falls upon the residents to bear these future costs. As many people do not have the financial conditions to afford this type of expense, they ultimately return to living in a place that does not guarantee a good quality of life.

More than simply providing the settlement with basic urban benefits, which were previously inexistent, adequate infrastructure must relate to the surroundings. One of the forms of spatial segregation is represented by the discrepancy in urban infrastructure between neighboring areas. Thus, the physical equivalence of infrastructure installed in the regularized settlement and its surroundings is a factor that may positively reflect on the urban quality of the region as a whole.

Infrastructure improvements are an essential part of the settlement consolidation process. Boaventura de Sousa Santos (1988) and Carlos Nelson Ferreira dos Santos (1981), among other authors, claimed that the development of the occupation increases the political costs of removals, acting as a strategy against removing the settlement and, consequently, helping to consolidate a land tenure regularization process. Thus, with the infrastructural improvements, the residents' sense of security of tenure increases to the extent that they are induced to invest more in their housing. In turn, these investments make it possible for the settlement to consolidate itself more and more, constituting a virtuous cycle.

Also contributing to this virtuous cycle is the fact that, with the infrastructure in place, it is easier for residents to transport construction material to their homes, thereby making it possible for them to add new investments in the place themselves.

Another technical assumption that we emphasize is the need to reconcile the interventions promoted with local urban legislation. This is a crucial action of the urban dimension of regularization, and which had not been implemented in the cases studied. If actions aimed at urban regularization are not carried out then the settlement continues under legislation that is inadequate to its reality. As a result, land tenure regularization remains incomplete and negative consequences may result from this fact, such as a decrease in the sense of legal security and the difficulty to obtain full access to services.

Last but not least, are the social assumptions, the main one being community organization. As demonstrated by the initial efforts to assess the experiences of land regularization (ARAÚJO, 1988; CLICHEVSKY, 2003), the articulation of community leaders motivated to achieve common benefits is a fundamental differential for the conduct of the land regularization process to proceed well. The qualified participation of residents at all stages of regularization enables more adequate solutions to be adopted for the settlement. When it is not present from the moment of preparing the interventions, it is necessary to encourage it as a first step towards promoting the land regularization process. This is one of the dilemmas faced by the so-called “social work” in regularization processes: how to obtain a community organization in places where it does not exist or does not appear spontaneously among the potentially beneficiary population. One relevant point within this context is the so-called “overcoming individualism”. The rigorous observation of the experience in Juiz de Fora supports the hypothesis that residents associate themselves in favor of collective improvements in the expectation that this offers individual benefits, i.e., the person participates in the actions more for the possibility of achieving something of interest than by the feeling of belonging to the place or the group (OLSON, 1999).¹² Therefore, motivating residents to become involved in community issues is a challenge to the social work inherent to regularization, and this involves illustrating the correlation between the individual and the collective benefits of the intervention.

12. Based on the studies of Olson (1999, p. 18), when groups were formed, “the attraction of group membership is not so much in sheer belonging, but rather in attaining something by means of this membership”. According to Olson, involvement occurs as each member of the group, or at least one of them, thinks that their personal gain in obtaining the collective benefit will exceed the total cost of getting involved, working for the cause and providing a certain amount that benefit. N.B. For this direct citation, the English version was used of OLSEN, M. *The Logic of Collective Action*. Cambridge, Mass. Harvard University Press, 1965, p. 21.

The second social assumption is what may be called the “empowerment” of the residents. In the cases studied, one of the ways used to strengthen the autonomy and confidence of residents was to encourage them to identify themselves as being co-responsible for the intervention. When they detect failures, they call the city hall technicians to solve the problem with the contracted company. Indeed, when they feel co-responsible, residents tend to seek the best for their area and become aware of how they benefit from interventions. Maintenance of the interventions carried out arises as a consequence of this action.

Another assumption is the creation of training courses for the residents – an action that may also act as a factor of “empowerment” for the subjects. Regardless of the axis to which the courses are intended (job and income generation, environmental, social, etc.), it is important that they take place within the settlement, at a time suitable for the target audience. Otherwise, high dropout rates may result, as identified in the case of Alto Santo Antônio.

One final social assumption is the training and familiarization of the residents with respect to the legal/ownership dimension, so that the regularization has, among its results, the appropriation, albeit relative, of its legal instruments by the beneficiaries. It should be noted that, although they do not fully understand the legal dimension involved in regularization, settlement residents commonly see it as necessary for accessing services and the market in general.

4. The “post-works” moment: seeking to consolidate the results of regularization

Empirical research, on which this article has been based, occurred in low-income areas where land regularization processes had already been completed for ten years or more. This period of time was considered sufficient in order to be able to assess the results obtained by the regularization.¹³ Throughout the field work, both city hall technicians - responsible for conducting the regularization process - and the residents identified that the discontinuation of actions in the areas by the public authority was a factor that made it impossible to consolidate the regularization. This enabled a fresh effort of systematization; this time however, we indicate lessons involving political, institutional, technical, social, economic-financial and socio-environment factors for the period after the intervention was concluded, which the technicians linked to regularization typically call “post-works”.

13. In the City Statute, ten years is the maximum period for the municipal Master Plans to be reviewed. Therefore, we consider this period to be sufficient for the consolidation of an urban policy.

We begin with institutional lessons. A first lesson refers to the continued actions of the public authority in the settlement achieved by the regularization. We perceived the need for a continuous link, since the actions do not come to an end when the intervention of land tenure regularization is concluded, but extend through to the management of an area, as intended in the regularization, fully incorporated into the city during the post-intervention period. This period requires public investment in maintenance, adequation or even expansion of the infrastructure, equipment and services installed during regularization, in accordance to what occurs in relation to the city as a whole. This also applies to the legislation initially established for the settlement, which demands periodic revisions. For example, when there is any pre-existing legislation, this may have been consolidated under political and cultural conditions that are no longer valid at the exact moment of regularization, and thereby need to be reviewed (Rolnik, 1997). Or alternatively, when specific urban legislation has been introduced into areas that have never experienced this type of action, it is soon common for a set of conflicts to emerge that require adjustments with reasonably short time limits.

So that investments and revisions may be identified, we indicate the next institutional lesson, which is that the local public authority must implement monitoring and assessment systems. Following up on results is important for the appropriate correction of problems arising from the way in which the regularization was undertaken. Therefore, it is important for a periodic assessment to be included in its scope as to whether the demarcation of the regularized settlements has been maintained, such as the ZEIS, or fall within some protective legislation that favors social interest. Many specialists (from the academy or public management), such as a Bacelete (2009) and Alfonsin (2000), have recommended that the regularized area remains demarcated as a social interest - a strategy to avoid a loss of character, sudden changes in its pattern of land use and occupation, and an over-valorization of the area, with the consequent expulsion of the residents. This assessment should be carried out carefully, taking into account local dynamics. As in most situations faced by urban management, the national and local normative system enables different solutions and institutional arrangements, with alternatives in relation to the ZEIS.

Moving on to technical lessons, we have grouped a set of perceptions involving the instruments of land tenure regularization. We emphasize the importance, at the time of design and when applying the urban planning instruments, of recognizing the need to allow the transfer of ownership of properties by residents. Insofar as housing mobility is present even before regularization – an intrinsic characteristic of urban life (ABRAMO, 2003) –, as a rule, it is not down to the regularization proposal

to restrict it, except in exceptional, temporary situations. This does not imply the automatic adoption of titling through full and individual ownership of regularized properties, since other types of title also allow transferability. Alongside this, it is necessary to consider both the expectations of the residents and the possibility that the adopted modality might overly expose them to the pressures of market forces. From these questions, we distinguish a triple function of the titling process: to increase the sense of ownership security, to reduce the possibilities of residents being evicted and to enable housing mobility.

A second point that caught our attention, and which is still included in the technical lessons, is the collective modalities of titling. One dimension that distinguishes the studied experience is the item of collective usucaption, one that we believe still lacks its due maturity, in conceptual and normative terms, and even in terms of practice and experience. The directive to seek “collective solutions for collective problems” is one of the wagers of the City Statute and of the entire trajectory of land regularization policies in Brazil, one of the many countries in the global South that faces macro-structural problems of access to land. Thus, we consider it essential to reflect upon the advances and difficulties of these solutions, especially in the period that followed the edition of MP 759, from 2016 - converted into Federal Law No. 13,465, in 2017 -, which exacerbated the individualist wager, a bias which is explained by the manner in which *Reurb*¹⁴ has been designed.

In the case studied, in the formation of the special condominium referred to in Art. 10, and its paragraphs, from the City Statute,¹⁵ an ideal fraction was attributed to the city hall, in order to legitimize its ownership of the areas of common use in the regularized settlement, constituted by public areas, squares, etc. This measure seems to help overcome the problem of legal prohibitions (real or supposed) so that the government is able to invest in an area that, technically, would be private, facilitating the public management of the regularized area. It is a solution that also has the virtue of reaffirming the municipal duty to maintain the investments that have been made. However, analysis of the regularization process has demonstrated that there was a problem: at the time of registration, an identical ideal fraction

14. This is a *nomen juris* to designate land title regularization and its modalities, adopted in the aforementioned law 13,465/17.

15. The last three paragraphs, which deal directly with the aspect under discussion, deserve transcription: “§ 3 In the sentence, the judge will assign an equal ideal fraction of land to each owner, regardless of the size of the land that each one occupies, unless there is a written agreement between the joint owners, establishing differentiated ideal fractions. § 4 The constituted special condominium is indivisible and is not subject to extinction, unless a favorable decision is taken by at least two-thirds of the joint owners, in the case of urbanization subsequent to the constitution of the condominium. § 5 The resolutions related to the administration of the special condominium will be taken by majority vote of the present unit owners, also obliging the others, dissenting or absent”.

was granted to everyone, including the city hall, which received a smaller fraction than the effective portion of areas that were under its administration. Since collective adverse possession, until 2016, depended solely on a court decision, the precaution regarding the proper establishment of fractions granted to residents and the administration must be present from the initial petition of the action filed by those who hold the usucaption or, in the worst hypothesis, be equated during the processing procedure, by calling the city hall to the legal process, from its first moment – a measure that, in practice, proves to be indispensable to the effectiveness of this type of process.

In addition to better institutional management and an appropriate use of urban planning instruments, some socio-environmental lessons should be highlighted. First, we indicate the relevance of including a health and environmental education component in regularization. Addressing the environmental dimension is essential not only to ensure an ecologically balanced environment, but also to increase the well-being of residents. Furthermore, we observe the importance of projects that attract people into public spaces. Interventions do not always provide spaces for sport, leisure and/or coexistence for the population, and this factor was highly emphasized in the assessments collected from the residents during the fieldwork. The intervention, to ensure a good quality of life, must go beyond the basic infrastructure, and should also provide infrastructure for collective activities. Besides this: the movement of people on the streets still affects factors such as greater integration of residents and a reduction in violence, as suggested by Jacobs (2011).

So that all the above-mentioned lessons may be made possible, we turn to the economic-financial lessons. The first lesson is the cost and investment recovery mechanisms of the regularization program/project. Despite the unpopularity and the fact there is no tradition of applying this type of measure in Brazil, especially in low-income areas, the lack of these mechanisms puts at risk the maintenance, expansion and replication of land regularization actions by city halls – the promoting agent of the vast majority of regularization actions. This theme has an interface with the problem of increasing property maintenance costs as a result of regularization, which reduces the population's interest in this intervention, who do not view it as a benefit (MELLO; CUNHA, 2011). It seems essential to consider all the aspects involved, especially the contributory capacity of those benefitting from regularization, and are generally already penalized by the regressive nature of Brazil's tax system.

A second economic-financial lesson is the definition of tariff policies for the provision of urban services, which are specific and compatible with the community's ability to pay. The so-called "social tariffs", provided for by law and

applied in the cases studied, are a factor that helps to guarantee the permanence of residents in the area after an intervention, by avoiding an increase in the cost of living above their ability to pay.

To speak about forecasting the necessary budgetary resources to enable an adequate operation of the public equipment offered, in particular the social items, may seem somewhat obvious, but it remains a third lesson. It applies to the municipal administration and its ability to maintain the implemented improvements.

The fourth lesson may be located in the component of employment and income generation, essential for increasing the possibilities of socioeconomic and urban development arising from the regularization and from carrying out housing improvements through the initiatives of the residents. However, it is a difficult component for the municipality to attend to, due to the profound mutations that the world of work has been facing. One of the means applied in the analyzed cases was the offer of professional courses, which, because of the manner in which they were implemented, had few positive impacts. To obtain better results, one of the corrective measures would be to offer them inside the settlement itself, at a suitable time for the target audience, and link them to a public authority program for the effective insertion of course participants into the labor market.

We end with the fifth economic-financial lesson, which, to some extent, complements the previous lesson, namely, the offer of microcredit, so as to encourage the development of community microenterprises. In other words, it is insufficient to financially encourage the creation of this type of enterprise, it is also necessary to provide immediate material conditions in order for it to emerge and for its temporal and economic support.

To conclude (or not!)

In this article, our intention has been to reflect on how the land tenure regularization policy of social interest in the municipal sphere has been addressed, based on a study of experiences in the municipality of Juiz de Fora, in the state of Minas Gerais. In a contextualized manner, we have particularly sought to analyze the notion of full land tenure regularization and its conditions of viability.

Our assessment has revealed that there is an evident need to review the design, implementation and follow-up of the regularization policy. With this in mind, assumptions and lessons collected from the Juiz de Fora experience have been listed, in order to empirically reference the debate and help future experiences, thus fulfilling the desired theoretical-practical role of the research.

The Juiz de Fora experiences failed to meet the concept of full land tenure regularization. In general, the actions revolved around the provision of infrastructure, gradually implemented in the settlements; and when they

were finalized, the titling process began. These two fronts were carried out in a fragmented manner, without linking the four dimensions of full regularization (legal/ownership, urban planning, environmental and physical-social). Although we conclude that the empirically studied experiences do not meet the concept of full land tenure regularization, we nonetheless observe that they lend important support to the debate on themes intrinsic to the process of revising this concept. There are results that have not yet been properly considered in the assessments of experiences associated with the type of land regularization considered herein – assessments that still tend to measure (the failure of) regularization in terms of the number of land titles issued.

We believe that the concept of full land tenure regularization adopted in Federal Law No. 11,977, from 2009, represents an important effort towards implementing, legally and materially, fundamental constitutional clauses, such as the social right to housing, the social function of property and the right to an ecologically balanced environment. However, in light of the experience studied – and others throughout Brazil –, it is not difficult to realize that the four dimensions of full regularization fall short of what is idealized when actions are inscribed across the territory. This is the mismatch that we have sought to clarify and examine throughout this article, through some major lines of reflection, such as: security of tenure; maintenance costs; land valorization; transfer of ownership of the regularized property; access to infrastructure and services in the settlement; discontinuity of public actions; and the role of the beneficiaries.

On a broader scale, one crucial element in qualifying the experiences is the role of the beneficiaries, real or supposed, of the regularization, i.e., the residents of the settlements. The recurrent view of residents as “partners” of the regularization seems insufficient to us to account for their recognized protagonist role in the sphere of discourse, presenting it more as a reductionist version. This notion reaffirms a somewhat autocratic conception, historically present in the relations between the State and the impoverished classes, a tradition that does not yet seem to have been properly overcome in the design of regularization actions, projects, programs and policies. Overcoming this, were it to happen, would undoubtedly broadly re-dimension the concepts that thematize the relations between the main regularization agents, including in them something that goes beyond – and which is of a different nature – a mere “partnership”. In this problem we note one of the structural challenges for updating the concept of full land tenure regularization.

One possible review of the research on which this article was based would consist of revisiting the experience of full land tenure regularization, in order to analyze it against the recent changes in the national legislation on this very subject, introduced from 2016 with Provisional Measure No. 759, which sought to

broadly reconfigure the land tenure regularization model adopted in Brazil. At a time of debates concerning Federal Law No. 13.465/2017 and the regulatory decrees that have come in its wake, this exercise could serve as a parameter to assess the normative changes promoted over the last five years, a period seen by some as a new cycle of national macro-politics, defined by the governments of Michel Temer and Jair Messias Bolsonaro, a periodization that we view as equally valid for urban policy and, particularly, for land regularization. An assessment of this type is necessary, given that the current legislation is the subject of several controversies, having been implemented based on a provisional measure, without major open debates with society and without the due process – technical and socio-political – of maturation. It is also marked by a significant break with the process of conceptual and experimental accumulation that had been developed in Brazil since the 1960s, despite the contradictions of this experience.¹⁶

On the other hand, land tenure regularization interventions have developed in Brazil in a non-homogeneous and non-linear manner. This suggests that, despite their deficiencies, they are the object of dispute between different political-ideological conceptions and that they significantly interfere in the status of the land issue – an issue whose centrality has marked Brazilian history since the colonial period. Therefore, studies that aim to problematize sensitive elements related to the understanding and viability of the key concepts that underpin them, such as the notion of full land tenure regularization, as discussed herein, have become increasingly important and urgent.

In view of the confrontation between the set of problems and reflections that have emerged from the effort to analyze the empirical material and the theoretical repertoire used as a reference to consider land tenure regularization, it is evident that there is a gap between theory and practice. Such a mismatch may be observed, on the one hand, in the difficulty of making concrete experiences of regularization incorporate and materialize understandings that are already reasonably mature in the speculative field. On the other hand, this discontinuity manifests itself in the opposite direction, i.e., in the limitation of theoretical productions, which need to thematize and address the real issues that mark the regularization experiences, structuring explanations and interpretations regarding these issues and indicating clues for the desired leaps in quality in material practices – something that is legitimately expected of scientific works.

16. This demarcation is based on the appearance of the expression land tenure regularization in Brazilian legislation, via the Land Statute (Federal Law No. 4,504, of 1964), followed by its transposition to the urban environment in the 1970s and 1980s from the BNH, of the Federal Law n° 6,766, from 1979, and of pioneering municipal experiences.

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