

## CHALLENGES FOR SUSTAINABLE URBAN TRANSFORMATION IN SÃO PAULO: VISIONS, INTERESTS AND DEMANDS UNDER DEBATE

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### Abstract

*The objective of this article is to map the main actors that seek to exert influence in the regulatory arena of urban policy in São Paulo and to identify whether they converge or not with the principles of sustainable urban transformation, according to the precepts of a compact city, with low-carbon emissions, and which aims to reduce social inequalities and promote environmental qualification. Two attempts to change the zoning law, which occurred in 2018 and 2019, have been chosen as the stage for analysis. Among the main actors and interests in dispute in this arena, the study has identified real estate developers (increased profit margin), neighborhood associations in the expanded central area of the city (protection of local characteristics) and social movements for housing (accessible decent housing). Within this context, the present article discusses the main pressures for changes in the socio-political pact defined by the 2014 São Paulo Master Plan.*

### Keywords

*Regulatory arena; Urban planning; São Paulo; Sustainable urban transformation.*

## DESAFIOS PARA TRANSFORMAÇÃO URBANA SUSTENTÁVEL EM SÃO PAULO: VISÕES, INTERESSES E DEMANDAS EM DISPUTA

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### Resumo

*O objetivo deste artigo é mapear os principais atores que buscam exercer influência na arena regulatória da política urbana paulistana e identificar suas convergências ou não com princípios de transformação urbana sustentável, conforme preceitos de uma cidade compacta, de baixa emissão de carbono, que visa a reduzir desigualdades socioterritoriais e promover qualificação ambiental. Elegeu-se como arena de análise duas tentativas de alteração extemporânea da lei de zoneamento, ocorridas em 2018 e 2019. Entre os principais atores e interesses em disputa nessa arena, identificaram-se incorporadoras imobiliárias (aumento da margem de lucro), associações de bairro presentes no centro expandido da cidade (proteção das características da localidade) e movimentos sociais por moradia (habitação digna acessível). Nesse contexto, o artigo discute as principais pressões para alterações do pacto sociopolítico definido pelo Plano Diretor de São Paulo de 2014.*

### Palavras-chave

*Arena Regulatória; Planejamento Urbano; São Paulo; Transformação Urbana Sustentável.*

# CHALLENGES FOR SUSTAINABLE URBAN TRANSFORMATION IN SÃO PAULO: VISIONS, INTERESTS AND DEMANDS UNDER DEBATE<sup>1</sup>

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## 1. Introduction

Urban planning defines a set of guidelines and rules to guide the long-term urban development of a city, systematically encompassing several sectoral policies that promote both incentives and restrictions to public and private investments in urban infrastructure and equipment, housing, transport, as well as incentives and restrictions aimed at environmental preservation and sustainability (JIANG et al., 2017; BULKELEY; BETSILL, 2013; BULKELEY; TUTS, 2013). This regulatory capacity is essential for cities, particularly because of the high cost of providing urban infrastructure and the low investment capacity of local governments (BRAGA, 2012; SATTERTHWAITTE, 2007; 2008).

The Strategic Master Plan (SMP) of the city of São Paulo (SÃO PAULO, 2014) presents convergent guidelines aiming at sustainability in the urban space, taking into account its regulatory instruments and sectoral policies, related to the following elements: i) population and construction densification in the mass public transport axes in order to promote inclusive, low-carbon urban development; ii) a redistribution of resources and risk management in the housing policy, with regular sources of funds, urban resettlement, a reserve of land for social housing and regulation with prioritized housing (public and private) for low-income

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populations; iii) land reserves and funding instruments aimed at improving the protection and preservation of green areas in the municipality (BACK; DI GIULIO; MALHEIROS, 2021; DI GIULIO et al., 2018; BACK, 2016). These urban and environmental instruments converge with the aims of reducing greenhouse gas (GHG) emissions and adapting to extreme weather events on a local level, even though these synergies have not been described in the SMP nor discursively linked to the climate agenda (BACK, 2018; 2016; DI GIULIO et al., 2017).

Urban planning and inclusive governance processes emerge as instruments that define collective missions and facilitate the formation of political coalitions aimed at urban transformation. However, the transformation for urban sustainability is an inherently political process that involves the dynamics of conflict and agreement between different stakeholders, all of whom hold different views and interests regarding urban development (ROMERO-LANKAO et al., 2018; WAMSLER et al., 2013).

Thus, it is important to understand the power dynamics that become established between urban actors in the local political economy in relation to the objectives of sustainable urban transformation. Essentially, there are no neutral paths in the pursuit of complex goals, and understanding the visions, interests and demands of actors regarding urban development is necessary in order to understand how urban actors tend to support or oppose planning models that aim to transform for urban sustainability (CASTÁN BROTO; WESTMAN, 2020; DI GIULIO et al., 2019; CHU et al., 2017).

The guidelines of municipal master plans and their related urban devices and instruments may be classified into two dimensions (BACK et al., 2021). In the first, identified as the regulatory arena, self-applicable regulatory instruments related to delimiting urban areas and their rules of occupation and densification act, on the one hand, to limit and restrict the activity of real estate production, and, on the other, such regulatory devices are able to guide and promote incentives to certain forms of land use and occupation capable of benefiting other interests in the city (VILLAÇA, 2005; LOWI, 1972).

In the second dimension, identified as a redistributive arena, there are guidelines and policy proposals aimed at the public authority itself, targeted toward organizing state intervention in urban space. These guidelines and proposals work as a political agenda for implementation in both the medium and long term, which, for its effective implementation, depends on political will and commitment, as well as the allocation of financial and budgetary resources in the future (VILLAÇA, 2007; VILLAÇA, 2005; LOWI, 1972).

In both arenas there are conflicts between actors, albeit with different dynamics. In the regulatory arena, for example, the visions, interests and demands of groups are exercised in urban policy in relation to instruments that define rules in the legal-normative framework and form urban development policy (master plan; zoning laws; building codes). In turn, in the redistributive arena, the dynamics of conflicts and agreements between actors occur in the distribution and allocation of budgetary and extra-budgetary resources for investments in the city, involving the management of urban policy (BACK et al., 2021).

The scope of this article is limited to addressing the regulatory arena of urban policy in São Paulo. It starts from an understanding that urban instruments and regulations shape urban development policy, changing incentives that contemplate or harm the different interests at stake by guiding and promoting incentives to certain forms of land use and occupation. Hence, the instruments are not exempt, and may benefit or restrict the interests of certain groups by defining a set of rules that is perpetuated over time (LASCOUMES; LE GALÈS, 2012; 2007). Urban instruments are the basis for understanding disputed interests and the views of actors regarding urban development.

The central objective is to map the main actors that seek to exert influence in the regulatory arena of urban development policy and identify the convergences (or not) of their visions, interests and demands, in order to achieve sustainable urban transformation. Therefore, the article is organized into four sections, in addition to this introduction and final remarks. The first section is dedicated to clarifying the methodological procedures undertaken during the research. In the second section, some views and assumptions on the model of sustainable urban development are briefly discussed, based on the principles and guidelines defined in international forums and in the specialized literature. The urban instruments contained in both the master plan and the zoning law in São Paulo are also presented, associated with the operationalization of this urban development model. The third section, from a historical perspective, addresses the views, interests and demands of the main urban actors in relation to the city's urban development policies. Lastly, the fourth section examines the performance of these groups regarding two attempts to extemporaneously change instruments and regulations of the zoning law that took place under different administrations (2018 and 2019), and which could modify the essence of several devices defined within the 2014 Master Plan.

## 2. Methodology

Initially, regulatory instruments that converge with the normative guidelines for a safe, resilient, low-carbon and environmentally sustainable urban

development model were identified in the 2014 Strategic Master Plan for São Paulo. Within this context, the legal-normative framework was used of the master plan and the zoning law, as well as the City Statute (BRASIL, 2001), in addition to a non-systematic bibliographic survey based on studies that have addressed and interpreted the main regulatory innovations provided for the 2014 Master Plan.

Subsequently, the attempts to change regulatory instruments in the zoning law that occurred in 2018 and 2019 were chosen as the arena of analysis, seeking to map the main actors under debate and understand their views and their underlying interests. In addition to the drafts of the proposed change to the law, the minutes of the discussions that took place at public hearings within the scope of the Executive Branch were also analyzed, as well as participant observation of some of these events. This arena of discussions, through public hearings, within the scope of the Executive Branch, was prior to forwarding the proposal to the Legislative Branch. Pursuant to Article 332 of the Master Plan, any proposal put forward by the Executive Branch for legislative change must first present the technical studies that support such proposals to the community, so as to enable the manifestation of the various actors interested in regulating urban policy in São Paulo, under penalty of breaching the formal rites of participation and having the process suspended as a result of judicial control.

During the public hearings within the scope of the Executive Branch, several actors with different views on the urban development of the city came forward. However, only actors who presented interests and demands that influence urban policy in a comprehensive manner, involving regulations that affect the entire city, were selected for this analysis. Thus, actors who only exposed mere particularistic demands were discarded.

In order to support the analysis of the empirical data collected, a bibliographic survey was conducted on the main demands, the forms of action and the power resources of the mapped actors. Thus, theoretical-analytical perspectives and approaches from urban sociology, urbanism, political science and climate change governance were developed.

### 3. The São Paulo master plan and sustainable urban transformation

“Sustainable urban development” is a term that has involved disputes over its definition. In the Federal Constitution and in the City Statute mention is made regarding its meaning that arouses an ideal model of development, therefore, of a normative character (how it should be) (SOUZA, 1998). Similarly, international forums have propagated assumptions for an inclusive, safe, resilient, sustainable and low-carbon urban development, as illustrated by UN agreements – the 2030

New Urban Agenda for sustainable development, (Habitat III), the Paris Agreement on climate change and the Sendai Framework for Disaster Risk Reduction and making cities resilient (SOTTO et al., 2019; ROMERO-LANKAO et al., 2018).

The 2014 SMP is aligned with some of these assumptions, by bringing in innovations based on self-applicable regulatory instruments capable of inducing development, taking into account the dimension of design and urban morphology, according to principles of: a) the compact city, b) a reduction of socio-territorial inequalities, and c) adaptation based on ecosystems in the municipality (BACK et al., 2021).

The **principle of the compact city** is implemented in the master plan through regulatory instruments aimed at encouraging construction and population densification around medium and high-capacity public transport axes, where there is an established urban infrastructure. In addition, such instruments also encourage the mixed uses of urban land, involving residential, commercial and service uses, as well as diversification and social inclusion, with the aim of forming centralities interconnected by public transport. In the buildings located on the transport axes, there are restrictions on parking spaces, with the purpose of discouraging the use of private motorized automobiles and provide a better use of the constructed space (LEITE et al., 2015). Thus, a compact city might reduce home-work-home commuting and increase energy efficiency, observed in the reduction of displacements by private motor vehicles and in the reduction of local air pollution and GHG emissions (EVERS et al., 2018; KENNEDY et al., 2009; JENKIS; BURGESS, 2001).

Encouraging construction densification in transport axes is only possible if restrictions on construction densification dispersed throughout the city have been provided. Hence, the master plan determined limitations to verticalization and densification outside the mass public transport axes. One central point regarding these changes was to define that the right to build is a separate item from the right to property; therefore, it is necessary to pay for the right to build when the basic construction index has been exceeded, according to the instrument the Onerous Grant of the Right to Build (referred to as the OODC) (FRANCO et al., 2015; LEITE et al., 2015).

The basic coefficient of utilizing the construction potential was defined in the 2014 SMP as being equivalent to the size of the plot of land (CABase1). However, on the medium- and high-capacity public transport axes, where it is intended to promote construction and population densification, this construction capacity may be multiplied by four (CAMáx.4), in order to guide the verticalization process and encourage the use of public transport in these areas. This regulation enabled a

significant increase in the creation of extra-budgetary resources assigned to the Urban Development Fund (FUNDURB) and applied to investments in the city, especially in urban mobility and social housing (LEITE et al., 2015).

In the areas of the city however, that include middle and upper-class neighborhoods, characterized by residential and mixed-use areas, restrictions were defined on real estate production in terms of construction densification (at most, twice the size of the land in the core of the neighborhoods) and on the height of buildings (limits of 28 meters in mixed areas and 48 meters in centralized areas).

In relation to the **principle of reducing socio-territorial inequalities**, two regulatory mechanisms directed toward housing policy should be highlighted: 1) regular acquisition of resources originating from urban surplus value generated by real estate valorization; 2) delimiting Special Zones of Social Interest (commonly referred to in Brazil as ZEIS), aimed at offering social housing (prioritizing low income) and land regularization in precarious settlements.

Among the main regulatory instruments for acquiring regular resources in urban policy, the OODC and the Solidarity Quota are of particular note. The first is linked to the Constructive Utilization Coefficient (CABase). The application of the OODC occurs in the licensing of construction works that exceed the index defined in the CABase. The resources collected from the onerous grant are intended for FUNDURB, of which 30% must be allocated to investments in infrastructure (public transport, bike lanes and sidewalks) and another 30% to social housing. In the case of the latter, the resources are intended to reduce the housing deficit for the low-income population, to provide urbanization and land tenure regularization of precarious urban settlements, in order to minimize existing problems in areas with geotechnical risks and promote the resettlement of populations living in risk areas and permanent preservation areas<sup>2</sup> (FRANCO et al., 2015).

The solidarity quota, in turn, is an urban instrument, which determines that large real estate projects (those over 20,000m<sup>2</sup>) must produce Social Housing (HIS) or donate resources for this purpose equivalent to 10% of the area of the undertaking (COSTA et al., 2015).

With regard to the supply of social housing and land tenure regularization in precarious settlements, the Master Plan (SÃO PAULO, 2014) also expanded the delimitation of the ZEIS, divided into four types: i) land tenure regularization and urbanization of favelas (ZEIS1); ii) housing supply in urban voids (ZEIS 2);

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2. The FUNDURB application rules were amended by Law N. 17,217, of October 23, 2019, and allowed the use of resources in a more comprehensive manner in the highway system and use by the Public Authorities, also for the construction of housing units, as discussed in the penultimate section.



iii) production and renovation of housing on underused land or properties in areas with an established urban infrastructure, services and an offer of formal jobs, generally located in the central region of the city (ZEIS 3); iv) production of HIS in areas of protected water sources, equipped with previous urban infrastructure and aimed exclusively at populations transferred from risk areas and along the banks of dams (ZEIS 4); and v) an offer of housing for the middle classes in urban voids, in areas with good infrastructure, close to the central region of the municipality (ZEIS 5). In all the ZEIS, construction densification equivalent to four times the size of the plot is allowed. In the cases of ZEIS 1, 2, 3 and 4, both the government and private developers must, as a rule, offer at least 60% of the housing units in the building for income brackets of up to three minimum wages (classified as HIS1), thereby prioritizing the bracket in which the greatest housing deficit is concentrated.

Lastly, with regard to the **principle of adaptation based on ecosystems**, the focus of analysis was based on the environmental quota created in the zoning law. This is a regulatory instrument of environmental qualification within the scope of a plot with new buildings, mandatory for buildings of over 500 m<sup>2</sup>. The main objective of this instrument is to promote the creation of green spaces in construction projects in certain regions of the city. This thus seeks to increase the vegetation cover and soil permeability within the plot, in order to reduce the heat island effects and provide better drainage for rainwater, thereby helping to minimize the effects of flooding and/or inundation in the city (CAETANO, 2016; MALERONKA, 2015).

These regulatory instruments became the object of attempts to introduce extemporaneous changes between December 2017 and February 2018, and later in October and November 2019. Among the main actors who spoke out on that occasion were: real estate developers, middle class neighborhood associations and social housing movements. In the following section, based on a literature review, a synthesis is presented of the demands and historical positions of these actors in the urban policy of São Paulo. The section also identifies the power resources that these actors mobilized in order to influence decision-making. Four aspects are considered: i) organizational capacity, ii) financial resources, iii) technical-scientific knowledge, iv) formal/informal access to forums for expressing demands and to decision-making bodies (DAHL, 1961).

#### 4. Urban actors and the regulatory arena

The main urban actors that seek to exert influence over regulating urban development policy in the city of São Paulo may be divided into two groups: 1) urban capitals related to the immediate production of the city; and 2) actors with specific demands related to the use and occupation of urban land (MARQUES, 2016; 2017).

According to Marques (2016), urban capitals are those for which the valorization processes are directly associated with the construction, maintenance and operation of the city. These may be classified into four types: (i) developer capital, (ii) civil construction, (iii) services capital and (iv) management and consultancy. This study focuses on developer capital.

For real estate developers, the main form of capital valorization is to promote changes in land use, essentially linked to the production of built space. Thus, they seek to influence the regulatory apparatuses capable of restricting the construction potential in the city, such as the master plan, the law covering land use and occupation and the building code, their main arenas of pressure and action (MARQUES, 2016).

Developers operate in a competitive market, competing with one another for well-located buildable urban land. In addition, they enter into dispute with landowners, who seek to valorize the properties in their transactions, competing for a reduction in the profit margin of real estate projects (HOYLER, 2014).

There are developers of different sizes and that operate in different market niches, and therefore, with potentially different interests in relation to the rules of urban legislation. However, with regard to their main common interests, the following are the most prominent: 1) making urban regulations more flexible, in order to allow greater levels of construction densification and building heights in more areas of the city, especially in those that are endowed with an already valorized urban infrastructure; 2) reducing building production costs, by diminishing the financial counterparts paid with OODC; 3) speeding up the licensing processes of building works, since it is only after the permit has been granted that companies may begin selling housing units and recovering the invested capital (HOYLER, 2019; MARQUES, 2016; VILLAÇA, 2005; TOPALOV, 1979).

These interests are particularly represented by the Federation of Real Estate Companies in São Paulo (SECOVI-SP). This organization has a permanent, active technical-scientific body, responsible for developing studies that demonstrate the visions of this sector on the development of the city. Its representatives are a constant presence in different formal institutional forums that involve, directly or indirectly, urban policy, from decision-making arenas on regulation (master plan, zoning law, building code) and urban management (Municipal Council of Urban Policy), to consultative bodies, such as the municipality's Committee on Climate Change and Eco-Economy. In addition, as the results of this analysis sheds light on, there are indications that the first draft of the change to the zoning law in 2017 had the direct participation of segments of real estate developers, through informal access to decision-makers of municipal urban policy within the Executive.

Lastly, SECOVI has a significant contribution of financial resources, which historically have already been mobilized to defend its views at decisive moments in proposals for legislative changes contrary to the interests of the sector<sup>3</sup> – for example, to hire renowned lawyers and pay for advertising in major communication vehicles (BONDUKI; ROSSETO, 2018).

Table 1 summarizes the interests and demands of the developers regarding urban development policies.

Central objective	Visions	Derived interests	Demands/pressures
To increase the profit margin	Production of built space	To reduce production costs	Discounts on the Onerous Grant of the Right to Build
			Expansion of areas available for densification in city zoning (dispersed densification)
	Valorization of capital through transformation of land use and occupation	To increase construction capacity	Extinction of height limits for new buildings
			An increase in the Constructive Utilization Coefficient in urbanized areas with infrastructure and attractiveness
	To speed up the approval system for new licenses	Simplification of urban and building legislation	
		Urban operational consortiums	
	To indicate the areas for public investment	Urban intervention projects	
		Transport axes	

Table 1. Interests and demands of developers in urban development policies

Source: Own elaboration

The visions and interests of real estate developers, however, may be opposed to the interests of actors with specific demands related to land use and occupation, as is the case of upper-middle-class neighborhood associations.

In the city of São Paulo, since the 1970s, these neighborhood associations have played a significant role in defining restrictions on construction densification in the zoning law of the city's central neighborhoods. These are concentrated in the so-called expanded central area of the municipality, in neighborhoods with established urban infrastructure, and with a wide range of services, leisure and formal jobs.

3. In 2002, during the process of elaborating and discussing the Master Plan, there was a strong mobilization of the real estate sector against the proposal to change the CABase1 and of consequently applying the requirement of the onerous grant of the right to build above this index.

Among their main interests in the urban development policy of São Paulo, most prominent is to protect the characteristics of their neighborhoods, in the wealthier areas of the city,<sup>4</sup> based on exclusively residential zoning, with a low population and construction density (VILLAÇA, 2011; 2005; NERY JR., 2005).

The upper middle class neighborhood associations are concerned that an expansion of the population and construction densification in their neighborhoods would de-characterize them, in view of the possible increase in traffic in the region (a condition that increases noise and pollution), as well as the shading caused by new buildings on pre-existing residences. In their view, these factors could generate real estate devalorization and reduce security. Thus, they would like to prevent any advances made by the real estate sector in their neighborhoods (GLAESER, 2012).

Within this perspective, the Movimento Defenda São Paulo [the Defend São Paulo Movement] (MDSP) emerged during the late 1980s and early 1990s with the objective of representing these neighborhood associations in the city's urban development policies. To this end, the MDSP has a technical team specialized in urbanism and law and is active in opposing advances by the real estate market into upper-middle-class neighborhoods, especially in the central regions with extensive transport and services infrastructure, which are highly attractive for real estate (BONDUKI; ROSSETTO, 2018).

In order to achieve a qualified representation, the MDSP hires urban planners and specialized lawyers, constituting a permanent technical-scientific body that works to defend its demands in formal spaces of representation, both in the decision-making arenas of urban policy regulation (master plan and zoning law) and in the management arenas (the urban policy council and subprefectures) (HOYLER, 2014; BONDUKI; ROSSETTO, 2018). In addition to the MDSP's organizational capacity and representation, the association has the ability to petition the judiciary powers in order to question the legal validity of procedures and measures that affect its collective interests.

Table 2 summarizes the main interests and demands of the upper middle class neighborhood associations in urban development policies in São Paulo.

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4. Jardim Europa (near Av. Faria Lima), Jardim América, Jardim Paulistano, the neighborhoods of Cidade Jardim, Jardim Guedala, Morumbi, a part of Vila Nova Conceição, Alto de Pinheiros, and parts of Butantã, Pinheiros, Lapa, Ipiranga and Santo Amaro.

Central objective	Visions	Derived interests	Demands/pressures
To protect the local characteristics	To avoid mischaracterization of residential neighborhoods and 'vilas'	To limit construction and population densification	Exclusively residential areas
	To limit the flow of cars and people		CBase1 for the entire city
	To avoid noise pollution		Maximum CA limit 2
	To avoid the devalorization of real estate in middle and upper-class neighborhoods	To limit verticalization in the core of the neighborhoods	To limit the height of buildings in the core of the neighborhoods
	To avoid shading by new buildings on pre-existing residences		Onerous grant of the right to build above the base CA
	To ensure that the peace, safety and quality of life are maintained	To defend historical and cultural heritage	Protection order on buildings, squares, parks or the entire neighborhood
	To defend neighborhood rights	To increase public investments in environmental and urban qualification	Demand for public parks, sidewalks, bike lanes

**Table 2. The interests and demands of the neighborhood associations in urban development policies**

Source: Own elaboration.

Social movements for the right to housing have arisen historically within the context of social exclusion and periphera, informal urban expansion, involving irregular subdivisions and favelas. Since the 1940s, the growth of the informal city has become a reality. However, in São Paulo, this process accelerated during the 1970s (BONDUKI, 2018; MARICATO, 2001).

In peripheral neighborhoods, popular mobilization concerned with the demands for decent housing, urban infrastructure, the regularization and urbanization of clandestine subdivisions and favelas was supported by segments of the Catholic Church, driven by Liberation Theology (MARICATO, 2001; SADER, 1988). Support was also received from engaged professionals from different areas, particularly progressive architects and urban planners, who assisted social movements on projects for the urbanization of favelas and the construction of housing projects through joint efforts and self-management, as well as urban planners linked to the governmental sphere, which sought to formulate and implement different urban planning instruments to control the real estate process and enforce the social function of property. These initiatives built the foundations for the Movimento Nacional da Reforma Urbana [the National Movement for Urban Reform] (MNRU) (BONDUKI, 2018).

In the early 1980s, rising unemployment and hyperinflation exacerbated housing conditions, with the evictions of poorer tenants. In this context, new social movements arose to fight for the right to housing, whose action strategy was based on the collective, organized occupation of idle land in the city (BONDUKI, 2018; KOWARICK, 1981).

During redemocratization and the constituent period, a wide range of social movements and civil society entities were articulated around the MNRU so as to propose a popular initiative change for urban reform, in order to ensure a set of urban principles and rights with constitutional status. These included efforts: i) to guarantee the production of the city as a responsibility of the State, and not an object of profit; ii) to promote the right to the city, with a view to a more egalitarian model of urban life; iii) to limit the right to property and control the right to build; iv) to subject urban property to its social function; v) to promote a redistributive policy that prioritizes public investments for social housing, collective transport and environmental sanitation; and vi) to ensure the democratic management of the city, with social participation in defining urban development policies (BONDUKI, 2018).

The insertion of a chapter on urban policy in the 1988 Federal Constitution was a victory for the MNRU. However, the regulation of the principles provided for in the Constitution took another 13 years in order to be approved by the National Congress through a supplementary law. The so-called City Statute created a series of urban instruments converging with the principles defended by the MNRU, among them, the instruments for land tenure regularization: the ZEIS, intended for land tenure regularization and the offer of HIS; the Partitioning, Building or Compulsory Urbanization (PEUC),<sup>5</sup> to inhibit idle urban properties and give the property a social function; the Onerous Grant of the Right to Build (OODC), a mechanism that relates to recovering real estate valorization and separates the right to property and the right to build; and, the surface right, aimed at the regularization of occupations on public lands, up until the enactment of the law (BONDUKI, 2018).

Despite the undeniable progress brought about by constitutional and federal legislation, the struggle for the right to the city was decentralized to each municipality. Essentially, the municipal master plans were defined as a central guideline for applying urban instruments regulated in the City Statute. Thus, smaller cities, where social movements are less organized, may encounter difficulties in

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5. By means of a specific law for the area included in the Master Plan, the Municipal Public Authorities may require the owner of underused or unused unbuilt urban land to promote its proper use, under penalty, successively, of compulsory subdivision or construction; progressive urban land and property tax over time (progressive IPTU); expropriation with payment through public debt bonds, redeemable in up to ten years (BRASIL, 2001).

implementing the urban instruments provided for in the City Statute that converge with the principles of urban reform (BONDUKI; ROSSETO, 2018).

Despite the federal achievements, in relation to the demands of the MRU, the performance of social housing movements in São Paulo in the arenas of decisions on urban policy may be considered as being weak during the twentieth century. In general, the real estate entrepreneurs and the upper middle class inhabiting the central regions of the municipality have been the main actors that mobilized to define the urban development policy (VILLAÇA, 2005; NERY JR, 2005).

However, in the 2014 revision of the Master Plan, the Movimento dos Trabalhadores Sem-Teto (MTST) [the Homeless Workers' Movement] acted to defend the interests of the housing movements, especially in the demand for expanding the ZEIS, with technical support from members of the City Hall Housing Secretariat itself (BONDUKI; ROSSETO, 2018). It is important to highlight that the various movements for housing in the city usually operate in a fragmented manner and their leaders have difficulties in expressing themselves in the technical-scientific jargon, in which the proposals are presented and discussed, which became clearly apparent in the public hearings – object of analysis of this article (SMUL, 2018a; 2018b; 2018c).

Table 3. Interests and demands of social movements for the right to housing in urban development policies

Central objective	Visions	Derived interests	Demands/pressures
To ensure decent, affordable housing for the low-income population	To promote the social function of property	To provide access to housing in areas with urban infrastructure	Special areas of social interest
		To urbanize favelas	
		To enable land regularization	
	To foster the social function of the city	To resettle populations in risk areas	
		To ensure regular sources of funding for social housing (HIS)	Onerous Granting of the Right to Build
		To address the housing deficit of low-income groups	Solidarity quota
		To contain real estate speculation	Expansion of the public and private offering of HIS <sup>1</sup>
		To provide urban infrastructure and essential services	Progressive PEUC and IPTU
		Allocation of resources in urban equipment in suburban neighborhoods	

Table 3. Interests and demands of social movements for the right to housing in urban development policies

Source: Own elaboration.

The following section analyzes the visions, interests and demands of these urban actors and the underlying conflicts that emanated from attempts at extemporaneous revisions to the urban zoning law in two different governments.

#### 5. Interests at stake in the challenge of sustainability

The first attempt to revise the municipality's urban zoning law (Law N° 16.402/16) was undertaken in December 2017, less than two years after its last revision, proposed by the government of João Doria (PSDB), elected for the 2017-2020 mandate. Within this context, the interests and demands of the real estate developers were favored and were even granted informal access at the secretariat responsible for preparing the draft change to the law<sup>6</sup> (BERGAMO, 2018; CARTA ABERTA, 2018).

The main points of the proposal included: 1) a reduction of at least 30% in the value of the onerous grant; 2) eliminating the height limits for new buildings in the core of the neighborhoods; 3) permission to build more parking spaces in urban structuring axes, exempt from paying the onerous grant; 4) expanding the ceiling for large real estate projects – from the current 20,000 m<sup>2</sup> to 40,000 m<sup>2</sup>; 5) eliminating the environmental and social qualifications in Consortium Urban Operations, involving, in these areas, the extinction of the solidarity quota, the environmental quota, the height limits of buildings and parking spaces, as well as the regulation that encourages apartments for different income brackets; 6) creating a voluntary solidarity quota, which allows undertakings with less than 20,000 m<sup>2</sup> to donate an amount equivalent to 10% of the land and to gain, in counterpart, 10% of additional construction potential, upon payment of an onerous grant; 7) a reduction in the mandatory percentage of supplying housing units destined for the low income population, from the current minimum of 60% to evenly split (50% and 50%) the proportion of supply of HIS<sub>1</sub> and other modalities destined for higher income brackets; 8) permission to build larger apartments in urban structuring axes, which contradicts the provision for the production of apartments aimed at different income brackets; 9) changing the rules covering the environmental quota from 500 m<sup>2</sup> to 1,000 m<sup>2</sup> (SMUL, 2017a).

For discounts on the onerous grant, it was argued that reducing real estate production costs would provide incentive for the sector and would even help to increase tax collection (SMUL, 2017b). However, in the view of social movements and neighborhood associations, discounts on onerous grants would imply a reduction in

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6. This situation was denounced by journalists and reaffirmed in an open letter prepared by the MDSP and other associations.



resources for investments in the city, such as those for urban mobility infrastructure and for HIS (land regularization, urbanization of favelas, construction of housing units). The same reasoning applies to the proposal to abolish the solidarity quota in consortium urban operations, which would benefit the real estate productive sector by increasing the profitability of large real estate projects, but which would have direct impacts on reducing resources for HIS (SMUL, 2018c; 2018e).

In order to increase the profitability of real estate projects, real estate developers operating in this segment demanded a reduction in the minimum proportion of 60% for the offer of housing units for bracket 1, of up to 3 minimum wages, to 50%. The justification for this was that housing units intended for the public with 3 to 6 salaries would contribute to funding housing in bracket 1 (SMUL, 2017b). The consequence of this rule change was to reduce the supply of housing units in the lower income bracket, where the housing deficit is greater, thus contradicting the demands of the social movements for housing (SMUL, 2018c; 2018e).

The demand of real estate developers, which would affect the interests of upper middle class neighborhood associations, in turn, was to abolish the height limits for new buildings in the core of the neighborhoods. The aim of the developers with this proposal was to reduce their production costs by building just one tall, narrow tower on the land instead of two low, wide buildings, using the same constructive utilization coefficient. Thus, they would save expenses on elevators, engine rooms, foundations, among other items (SMUL, 2017b). However, this demand was not justified through cost reduction, but rather from a technical-scientific discourse regarding the environmental quality that a taller building would allow, taking into account the greater area of land that could be used for afforestation, drainage and wind circulation (SMUL, 2017b).

Neighborhood associations of the so-called expanded central area, however, argued that taller buildings would cause shading to pre-existing horizontal housing (SMUL, 2018c). Furthermore, this demand on the part of the developers sparked a warning signal for the neighborhood associations, in view of the fear that it would be accompanied by proposals<sup>7</sup> to increase the construction densification of these locations. Essentially, these are areas that are extremely attractive to the real estate sector due to their wide network of transport infrastructure, services and the offer of formal jobs (CARTA ABERTA, 2018). Neighborhood associations are, therefore, strong opponents of densification in their regions. However, it should be noted that the construction densification of these areas would be consistent with the principle of the compact city.

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7. Either within the scope of the executive power, or of the legislative power.

The environmental quota, in turn, is seen as one of the important instruments related to the improvement of the adaptive capacity of the city, since it encourages improvement in microclimatic regulation and increases the capacity to absorb rainwater on the plot of land, improving urban drainage in different sensitive areas. However, the change in scope of the instrument, proposed in 2018, only for buildings larger than 1,000 m<sup>2</sup> greatly reduced its effectiveness, since the predominance of real estate projects in the city occurs in smaller strips (SILVA, 2018). Without such an instrument, there would be a tendency for new constructions not to adopt sustainable construction procedures, which would lead to a reduction in adaptability, an increase in floods, flash floods, inundations, and heat islands. In other words, the private interest in maximizing profit would negatively affect the public interest.

In general, these proposals essentially favored the interests of real estate developers. In this context, representatives of upper-middle class neighborhood associations and social movements for the right to housing came together to bar the revision process, understanding that the proposed changes distorted the guidelines of the master plan. Led by the Movimento Defenda São Paulo, they mobilized to gather signatures for an open letter to the mayor, as well as for the signing of a legal petition<sup>8</sup> to suspend, delay and veto changes in legislation that contradicted their interests (SMUL, 2018a).

In the change of administration at the municipal government, when João Doria left the post as mayor of the capital of São Paulo in April 2018 to run for state government, his successor, Bruno Covas (PSDB), reconfigured the government with a new secretariat, which influenced the new proposal for changing the zoning law, in October 2019, based on the argument of correcting distortions (SMUL, 2019a).

With regard to the instruments for recovering the urban surplus value, associated with funding investments in infrastructure and housing policy, such as the Onerous Grant and the Solidarity Quota, there was a decline in relation to the previous proposals. The discount on the onerous grant was no longer justified because, essentially, real estate business was still booming, generating substantial increases in the collection of extrabudgetary resources for investment in the city (SMUL, 2019b). The Solidarity Quota was maintained as a mandatory rule for projects with more than 20,000 m<sup>2</sup>. In addition, projects with less than 20,000 m<sup>2</sup> were allowed to donate an amount equivalent to 10% of the value of the land,

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8. In the legal petition, the main argument sustained for suspending the revision process of the law was violations of the formal procedure, due to the lack of detailed disclosure, by the Executive Branch, of the studies that would support the proposals for legislative changes. Also, a material flaw in the proposal for contradicting the Master Plan by reducing the minimum percentages of HIS in the ZEIS (SÃO PAULO, 2018).

with the counterpart of gaining 10% of construction potential, upon payment of an onerous grant (SMUL, 2019a).

This measure made it possible to increase the construction potential – object of interest to developers, particularly the medium and small – and, at the same time, an increase in FUNDURB tax collection, allocating resources directly to social housing – the object of interest for the popular housing movements.

Still with regard to the manner in which FUNDURB resources are used, it is important to highlight two changes in the criteria defined in the Master Plan for the minimum allocation of resources, brought by a legislative change in 2019: i) permission to use the resource in the construction of housing units by the public authorities, in addition to the restriction on land acquisition, as initially defined in the 2014 SMP; and ii) permission to use the resources in the highways system in a broad sense. In the first case, the legislative change corrected a distortion. In the second, the change distorted the purpose of investments in active mobility and bus corridors, given that the resources for these areas began to compete with highway infrastructure works.

With regard to the ruling on the proportion of housing units for low-income units in the ZEIS, the government proposed an intermediate solution: it maintained the initial ratio of 60% of HIS<sub>1</sub> and 40% of other modalities, intended for higher-income groups, enabling, however, the highest rate of constructive use in the ZEIS, without charging the onerous grant, provided that 20% of (additional) HIS were aimed at the income brackets of up to 3 minimum wages (SMUL, 2019b). The objective was to encourage the private offer of HIS to the lower income groups, in which the main housing deficit is concentrated, and at the same time enable greater gains for the real estate productive sector that operates in this segment.

In relation to the height limits of buildings in the core of the neighborhoods, the proposal of the Executive Branch sought to define clearer criteria for situations in which an incremental increase could be allowed, ensuring that the coefficient of constructive use would not be altered. In other words, in the Executive's project, an increase in the height of buildings would not imply an increase in construction or population densification in these areas.

Despite this, middle-class neighborhood associations were concerned that the demand, on the part of real estate developers, to increase the height of buildings would also be accompanied by changes in construction and population densification, during the legislative process of reviewing the Executive's proposal

by the City Council (SMUL, 2019b). Hence, they organized<sup>9</sup> another legal petition with a view to once again suspending the process of revising the zoning law, alleging that the Public Authorities had presented insufficient technical studies (SÃO PAULO, 2020).

Box 1 summarizes an analysis of the prevailing interests and views of different urban actors on the proposed changes to the zoning law.

First Draft with the Proposed Changes to the 2018 zoning law				
Second Draft with the Proposed Changes to the 2019 zoning law				
	Developers	Neighborhood Associations	Housing movements	2014 SMP Guidelines
Extinction of height limits for new buildings	+	X	-	X
Increase in height limits, with criteria	+	X	+	+
Parking spaces on mass transport axes – new criteria	+	-	-	X
Parking spaces on the axes: greater flexibility	+	-	-	-
OODC payment discounts	+	X	X	X
Withdrawal from granting a discount at the OODC	X	+	+	+
Evenly splitting (50% and 50%) of the supply proportion of HIS <sub>1</sub> and HIS <sub>2</sub>	+	-	X	X
HIS <sub>1</sub> at 60% and HIS <sub>2</sub> at 40% + Additional 20% incentive for HIS <sub>1</sub> , without payment of financial compensation	+	-	+	+
Voluntary quota = or < 20,000 m <sup>2</sup> with a counterpart of increased construction potential	+	-	+	+
Maintaining the Voluntary Quota, and maintaining the mandatory Solidarity Quota for projects > 20,000 m <sup>2</sup>	+	-	+	+
Extinction of social and environmental qualifications in existing Urban Operations	+	X	X	X
Decisions on urban operations must be subject to a specific law	+	-	-	-
Doubling of the limit allowed for large projects of 20,000 to 40,000 m <sup>2</sup>	+	-	-	X
Maintaining the limits for large enterprises of 20.000 m <sup>2</sup>	X	-	-	+

9. The legal petition was signed by the Instituto de Arquitetos do Brasil-SP [Brazilian Institute of Architects-SP], Instituto Pólis [the Pólis Institute], the Movimento Defenda São Paulo [Defend São Paulo Movement], Associação de ciclista urbanos de São Paulo [the São Paulo Association of urban cyclists] and the União dos Movimentos de Moradia/SP [the Union of Housing Movements – SP] (SÃO PAULO, 2020).

First Draft with the Proposed Changes to the 2018 zoning law				
Second Draft with the Proposed Changes to the 2019 zoning law				
	Developers	Neighborhood Associations	Housing movements	2014 SMP Guidelines
Environmental Quota > 1.000 m <sup>2</sup>	+	-	-	x
Environmental Quota > 500 m <sup>2</sup> with greater flexibility	+	-	-	+

**Box 1. Interests and visions of urban actors on the proposed changes to the zoning law**

Legends: + favorable to or converging on the interests and visions; x contrary to the interests; - Indifferent or does not represent a substantial change.

Source: Own elaboration.

## 6. Final considerations

In 2014, the sociopolitical pact defined by the São Paulo Master Plan established changes in the city's paradigm, towards a convergent urban development model with guidelines for a compact city, sustainable adaptation and based on ecosystems (BACK et al., 2021). However, in the two following administrations, the regulatory arena of urban policy became the target of pressure.

Elected government administrations have great power to guide the agenda of urban public policies and are able to print their own visions or even prioritize certain societal coalitions that constantly press to enforce their interests and demands. Thus, although the regulatory instruments provided for in the SMP and in the zoning law tend to give greater stability to urban policy, they are not a guarantee of long-term sustainability.

During the Doria administration, all proposals to change the zoning law converged to the interests of real estate producers; in the Covas administration, although from the same political party, there was a mediation of conflicts in order to settle some of the main differences between urban actors and to promote win-win agreements. On the other hand, it was during the Covas administration that the change in the FUNDURB rule was observed, expanding the possibility of unrestricted use for the highways system, to the detriment of prioritizing investments in active mobility and public transport, as defined in the 2014 Master Plan.

The interests of legislative changes on the part of real estate developers, in order to increase the profitability of their projects, in general, proved to be opposed to the proposals of redistributing the resources of urban surplus value and reducing socio-territorial inequalities. In addition, such private interests stood in contradiction to the public interest in environmental qualification, as discussed in relation to the proposed change in the environmental quota instrument.

Neighborhood associations in the expanded central region of São Paulo, in turn, wished to keep their neighborhoods with a low construction density and as strictly residential areas in the central areas of the city, which contradicts the principles of a compact city. However, their demands for a low-density index played an ambiguous role for the city. Essentially, it meant supporting the definition of the basic constructive utilization coefficient equivalent to the size of the plot, which is a pillar for increasing the collection of resources with OODC, benefiting other areas of the city. In turn, the strictly low-density residential areas in the central region of the municipality, equipped with a wide network of urban infrastructure, contributed to inducing urban sprawl and maintaining the privileges of an elite segregated in tree-lined neighborhoods, which diverges from the objectives of a socially fair distribution of city goods.

However, not all the demands necessarily involved a zero-sum game. In the second proposal to revise the zoning law, the Public Authorities played the role of conflict mediator, instead of adopting a position in favor of one of the sides, as in the first proposal. Thus, some of the conflicting demands among the actors were able to converge in a win-win game, as occurred with the proposal to maintain the proportionality of HIS1 at 60% and HIS2 at 40%, with an additional incentive of 20% for HIS1, without payment of financial compensation. This proposal, mediated by the Executive Branch in the second draft of the law's revision, would maintain consistency with the Master Plan by prioritizing social housing for the lowest income bracket and, at the same time, meeting the demand of real estate developers for an increase in the construction potential and, consequently, greater profitability of projects in the ZEIS.

Middle-class neighborhood associations and social housing movements, however, saw, in these attempts at potential extemporaneous law change, setbacks in the socio-political pact established in the Master Plan, affecting their immediate interests. Thus, they proposed a lawsuit to suspend the proposed law changes, to the detriment of the interests/demands of real estate developers, traditionally endowed with ample resources of power.

Sustainable urban transformation is not merely the result of top-down urban planning. It is, in fact, a process that is forged in conflicts and agreements between different visions, interests and demands of public and private actors in the urban space. As this article has sought to highlight, in order to understand the challenges for sustainability in the urban context, it is essential to understand the interests of the main actors that seek to exert influence in the regulatory arena of urban policy.

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