



**THE IMPLEMENTATION OF THE TRANSFER OF THE RIGHT TO BUILD IN THE REGULARIZATION OF  
PARAISÓPOLIS (SP)**

*A Implementação da Transferência do Direito de Construir na Regularização de Paraisópolis (Sp)*

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## ABSTRACT

This paper aims to analyze the implementation of the transfer of the right to build in the regularization process of the Complex of Paraisópolis, in the city of São Paulo (SP). To this goal, bibliographical and documentary research was carried out during October 2020 and March 2021. Initially, the evolution of slum urbanization in Brazil is contextualized. It also analyzes the legislative evolution of the transfer of the right to build in Brazilian urban policy and in the municipality of São Paulo. Afterwards, the case study is presented, relating the experience of regularization of Paraisópolis with the use of the transfer of the right to build. It is concluded the project generated important results, but did not solve the housing deficit in the community.

**Keywords:** transfer of the right to build; Paraisópolis; regularization; urbanization; case study

## RESUMO

O presente trabalho busca analisar a implementação da transferência do direito de construir no processo de regularização do Complexo de Paraisópolis, na cidade de São Paulo (SP). Para tanto, foram realizadas pesquisas bibliográfica e documental entre outubro de 2020 e março de 2021. Inicialmente, contextualiza-se a evolução da urbanização de favelas no Brasil. Analisa-se também a evolução legislativa da transferência do direito de construir na política urbana brasileira e no município de São Paulo. Em seguida, apresenta-se o estudo de caso, relacionando a experiência de regularização de Paraisópolis com a utilização da transferência do direito de construir. Conclui-se que o projeto gerou resultados importantes, mas não solucionou o *déficit* habitacional existente na comunidade.

**Palavras-chave:** transferência do direito de construir; Paraisópolis; regularização; urbanização; estudo de caso



## INTRODUCTION

This paper aims to present a research about the urban landholding regularization of Paraisópolis Complex, in the city of São Paulo, since the implementation of the urban instrument known as transfer of development rights (TDR).

The topic is relevant because, in several Brazilian cities, a significant amount of people lives in “subnormal agglomerations”, such as tenements, slums, land invasions, grottoes, downhills and settlements. One of the main challenges in order to promote landholding regularization in these locations is the high cost of expropriation, usually necessary to start the landholding regularization process. Therefore, the city of São Paulo made use of TDR as an alternative to expropriations in Paraisópolis, encouraging the donation of properties located in this low-income community. The initiative deserves to be carefully studied, as it could become a paradigm for other landholding regularization experiences in Brazil.

The research techniques applied were a bibliographic survey and the analysis of public reports as well as informational papers from the City of São Paulo. The bibliographic survey took place in CAPES Thesis and Dissertations Portal [Portal de Teses e Dissertações da CAPES] and on the database of journals such as Cadernos Metrópole, Revista de Direito da Cidade, Revista Brasileira de Direito Urbanístico and Revista Brasileira de Estudos Regionais e Urbanos, between October 20 and March 2021. The reasoning developed through the investigation was deductive for the analysis of Urban Law legal norms; and inductive, based on the case study of Paraisópolis.

The paper is subdivided into four sections, aiming to present a broad overview of the topic. The first section presents a brief story of the urbanization process of Brazilian slums (favelas), paying attention to the evolution of the first public policies put in place, broadly based on removing residents from slums; to the most recent public policies, based on promoting landholding regularization through Urban Law instruments. The second section presents a brief story of how transfer of development rights is regulated by the Brazilian legal system and by the City of São Paulo’s legal system. The third section analyses the landholding regularization process in Paraisópolis Complex. It also discusses the contribution of TDR to the achievement of the objectives that were previously outlined. The fourth section presents the research’s conclusion.

This paper makes no pretense of being an exhaustive review of the topic. It simply seeks to contribute to the discussions about the landholding regularization of slums all around the country



through the application of urban policies instruments. The conclusions that will be presented might point to new reflexions about the topic, allowing the improvement of the instruments here studied.

## **BRIEF STORY OF THE URBANIZATION PROCESS OF BRAZILIAN SLUMS**

The irregular occupation of urban land by the population living in poverty, with the consequent formation of slums in several Brazilian cities, is a resultant of the exclusionary urbanization process implemented in Brazil mainly since the 20th century. Denaldi *et al.* (2016, p. 102) state the slums have emerged as a housing alternative for people who couldn't afford their right to adequate housing through State's public policies or through the formal real estate market, especially because housing expenses have never been incorporated to the wages that were paid to employees.

Lilia Schwarcz and Heloisa Starling presents an example of how the formation process of precarious settlements took place in the main cities of Brazil, analyzing the formation of the first slum ("favela") in Rio de Janeiro, located on Providência Hill (Morro da Providência), in the early 20th century. According to them, Providência Hill started to be occupied when ex-combatants of the War of Canudos decided to encamp on the surroundings of what was the Brazilian Ministry of War back then, claiming adequate housing from the Public Power. However, as public housing policies were highly ineffective at the time, the occupation became definitive. Former black slaves, as well as northeasters who were migrating to Rio, the federal capital at that period, joined the soldiers and built their houses around the same area (SCHWARCZ; STARLING, 2015, p. 337).

According to Cardoso (2007, p. 220), for most of the 20th century, urban policies related to slums were seeking to eradicate slums itself, either because slums were considered to be a primary source of contamination and spreading of diseases; either because slums were associated to urban crimes. It was not until the 1970s a change of direction is perceived through government actions related to slums, among them the creation of the PROMORAR program, from the National Bank for Housing (Banco Nacional de Habitação - BNH), which provided loans, onlendings and financing for landholding regularization and for the urbanization of slums (SANTOS, 2017, p. 63). Flávia Brasil (2003, p. 52) points out that, although the objective of PROMORAR program was to legalize the settlements, thus incorporating the population living in poverty to the formal real estate market, operating it demanded, in some cases, removals and resettlements of the inhabitants in order to make possible public works such as the extension of roads and the construction of state-subsidised homes.



PROMORAR failed to present significant results throughout its legislative lifespan. Slums only became object of a federal public policy again in 1993, when it was created a program named Habitar Brasil (PHB). PHB's target audience were families with an income up to three minimum wages, who lived in areas without adequate housing conditions, and which had not yet been included by another public housing program before. Through PHB, states and municipalities received funds in order to finance projects such as paving streets, installing electricity and sanitation, as well as constructing state-subsidised homes in slum areas. These funds were transferred by the then Ministry of Social Welfare through a state-owned bank named Caixa Econômica Federal. Although relevant, the program also couldn't generate the expected results. Souza (2008, p. 72-74) blame the failure to the lack of budget in order to finance these projects, as it were times of fiscal austerity.

It is important to point out that, although different, landholding regularization and the urbanization of precarious settlements are interconnected measures seeking to fulfill social rights of low-income families. Landholding regularization grants land tenure rights to the area's residents, while urbanization ensures the access to community facilities and public services. Therefore, Carvalho Filho (2013, 71-72) states that the natural consequence of landholding regularization of a precarious settlement is urbanization, as the residents intend to see the area they live equipped with urban infrastructure, such as sanitation, electricity and paving. Therefore, landholding regularization is a process that depends on legal, social and environmental measures to be carried out.

During the 1980s, that is, before the creation of PHB, some initiatives of landholding regularization by the Municipality were carried out, seeking the urbanization of precarious settlements. In this regard, it is worth mentioning the Projeto Rio (Rio Project) and the program Cada Família Um Lote – CFUL [For Each Family, A Plot of Land], both created by the City of Rio de Janeiro; and the Programa Municipal de Regularização de Favelas – PROFAVELA (Municipal Program for Slums Landholding Regularization), created in 1983 by the city of Belo Horizonte. Rubio (2017, p. 123) points out that, in the same period, similar initiatives could be found in cities such as São Paulo and Diadema, with occasional results.

Other federal experiences related to landholding regularization of slums were carried out throughout the 1990s and the early 2000s, by Programa de Ação Social e Saneamento – PASS (Social Action and Sanitation Program), Pró-Moradia (Pro-Housing) and Habitar Brasil/BID (Brazil Inhabit/BID), all of them without relevant results due to the scarce resources that were allocated (CARDOSO; ARAGÃO; JAENISCH, 2017, p. 19-21). However, due to the creation of Programa de Aceleração do Crescimento – Urbanização de Assentamentos Precários – PAC-UAP (Program for Accelerated Growth



– Urbanization for Precarious Settlements), in 2007, and due to the creation of Programa Minha Casa Minha Vida – PMCMV (My house, My Life Program), in 2009, large financial contributions were once again invested by the Federal Government in urbanization of precarious settlements, developing important repercussions in several cities, according to Antonucci and Samora (2016, p. 13).

As an example of PAC-UAP implementation, Fabiana Izaga and Margareth da Silva Pereira present the case of the City of Rio de Janeiro, where some slum areas were selected by the program. According to them:

Among other actions, PAC has selected several “subnormal” settlements to be contemplated, between them, three slums [favelas]: Pavão-Pavãozinho/Cantagalo, Complexo do Alemão and Favela da Rocinha. These slums received funds from the social and urban infrastructure sector of PAC-RJ, in the amount of R\$ 125,7 billion (US\$ 55 billion) of the program’s investments for Rio de Janeiro State until 2010. [...] In the three mentioned slums, developments were made in the water supply network, sanitation infrastructure, drainage, street lightning, in addition to street widening and paving, construction of new housing units, improvements in the existing ones and construction of public facilities. Regarding mobility, PAC’s differential is the elaboration of interventions seeking to establish connections with the existing urban transport network, in addition to acting at local scale through the previously established strategy of widening and connectivity of each area to the road network (IZAGA; PEREIRA, 2014, p. 96-97).

According to data from Brazil’s Federal Government, investments of R\$ 20,4 billions were planned to landholding regularization of more than three thousands precarious settlements in Brazil through PAC-UAP and PMCMV (BRASIL, 2014, p. 192). However, according to official data, until 2018 only 27% of the work had been done, in a total of R\$ 6,4 billion in resources. Most of the work was completed between 2015 and 2018 (four hundred and sixty-nine precarious settlements were already regularized then), corresponding to R\$ 3.5 billion invested on 1.820 Municipalities, which is still relevant given the low budget of previous programs (BRAZIL, 2018, p. 44).

The low spatial adherence between deficit and production of social housing initiatives, as well as the delay to complete the development work are some of the criticisms made to PAC-UAP and PMCMV, as in many cases the work suffered stoppages during its execution, according to data from the Federal Government itself. Besides, Balbim and Krause (2014, p. 199-200) criticize the lack of integration between the two programs and other social policies, such as job and income generation, which should be implemented jointly in order to face structural problems in the benefiting communities.



The urbanization process of Cantagalo and Pavão-Pavãozinho communities illustrates well some of these problems, as points out Andreia Nogueira dos Santos. According to a study developed by her, “PAC interventions, both in Cantagalo and in Pavão-Pavãozinho are unfinished and there are certain areas of the community with some aspect of destruction and neglect, since many houses were destroyed, and other houses have loosed their primary characteristics in order to open streets which were never concluded” (SANTOS, 2017, p. 89). Andreia also states that, although some PAC-UAP interventions were concluded, such as the installation of a large water reservoir and the construction of residential buildings, residents believe PAC-UAP, like other programs that preceded it, was unable to fulfill the expectations they had first raised (SANTOS, 2017, p. 101).

Raquel Rolnik *et al* (2015, p. 131) criticize the prominent role of construction companies in programs such PMCMV and PAC-UAP, especially because this prominent role results in the reproduction of a peripheral housing pattern, in which houses created for the population living in poverty are always far away from the city centers. For this reason, the same authors believe these public works could even create important sub-centralities on the peripheral points of the cities, due to a demand of commerce and service offering. However, on account of a precarious urbanization, these areas end up unequally developing in relation to the central and privileged spaces of the cities (ROLNIK *et al*, 2015, p. 146).

Therefore, it can be deduced there are still many issues to be solved in order to develop landholding regularization of subnormal settlements in a way that could answer satisfactorily to the social needs of the population. Even if PAC-UAP and PMCMV had received many financial resources for the urbanization of these areas, the small amount of social housing initiatives, the delay in executing public works, and the lack of coordination between other social programs are some of the issues that should be solved so these projects could result in an effective improvement in the inhabitants’ quality of life.

## **TRANSFER OF DEVELOPMENT RIGHTS (TDR) IN BRAZIL’S AND SÃO PAULO MUNICIPALITY’S URBAN REGULATION**



First, it is important to note that several urbanistic instruments could be used to execute projects of landholding regularization, and the combination of them is important, as there are several problems to be faced in Brazilian slums.

For the case study of this research, one of these instruments deserves attention, because it was through it some actions of Paraisópolis' regularization plan were made possible, such as the construction of social housings. This is the TDR, which is used for the regulation of territory provided for in Estatuto da Cidade (City Statute) (Federal Law 10.257/2001). TDR has been used by some Brazilian cities since the 1970s. In this section, it is presented this instrument's legal background and how it can be an alternative to expropriations.

TDR makes it possible for the landowner to transfer his development rights, i.e, his right to build in the land he owns, to another location, as well as makes it possible to the landowner to alienate his development rights to third parties. However, this transfer can only happen if fulfilled the two conditions disposed by article 35 of Estatuto da Cidade: (I) there should be a provision for TDR in the City Master Plan; and (II) there should be a municipal law that regulates the use of TDR. If one of these conditions isn't fulfilled, the government will not be able to allow the transfer from the administrative viewpoint.

According to article 35 of Estatuto da Cidade, TDR can be used for the following purposes: (I) the implementation of urban and community facilities, (II) the preservation of historical, environmental, social and cultural properties as well as the preservation of properties with relevant contribution to the landscape, and III) the execution of landholding regularization in areas with people living in poverty and the construction of social housing buildings. In the latter case, Barcellar, Furtado and Newlands (2017, p. 4) use as an example the occupation of a private land by poor homeless people. Through TDR, it is possible for the municipal government to receive as a donation the property in dispute, allowing the owner to build in another area of the municipality, and thus allowing the occupants to continue living in the same land, but now on a regular basis.

For Luiz Alochio (2008, p. 138), government always has the prerogative to expropriate properties in the cases prescribed by law (such as in landholding regularization); but budget limits usually prevent the payment of a fair compensation, limiting the expropriation cases. But TDR could be an alternative and an incentive for landowners, since it allows them to sale their development rights, or also to donate their property to the government in exchange for the possibility of building in other areas of the city.





According to Bittencourt (2005, p. 18), the first Brazilian experiences with TDR took place in the 1970s, when there was a lot of debates about the concept of “created soil” and the need to ensure a balance between built and free areas of the city. Some cities started to allow landowners to donate their lands to the government so, in return, they could use their development rights in other areas of the city, and that was the origin of TDR.

Nogueira (2019, p. 43) notes that Porto Alegre was one of the first cities in Brazil to allow the alienation of development rights through an instrument called “construction index reserve”, whose resources were used to pay the costs of public works for urban improvement in the city. Similar experiences have been adopted in other Brazilian cities, such as Curitiba and São Paulo, throughout the second half of the 20<sup>th</sup> century.

In São Paulo, the first Law providing for TDR was Municipal Law 9.725/1984. This Law allowed the use of TDR exclusively to protect properties of historical relevance or to protect properties of exceptional artistic, cultural or scenic value, according to Souza, Peretto and Seo (2019, p. 3). It intended to encourage the conservation of these properties by authorizing the transfer of development rights to more permissive and contiguous areas, where new buildings could be built. According to Louro and Silva e Campos (2016, p. 76), this preservationist nature of TDR was reinforced by Municipal Law 12.349/1997, which provided for TDR’s use in a program named Operação Urbana Centro (Urban Operation City Center).

The Urban Operations of the City of São Paulo are interventions in areas delimited by São Paulo’s Strategic Master Plan (SMP), aiming to make these areas structurally better, either with the installation of public facilities for common use, either with cultural, touristic and building investments in order to make this areas more attractive, for example. Fontes (2011, p. 84) states the Urban Operations redesign the urban, economic and social tissue of certain areas that should be ruled both by the SMP and by specific municipal law. As an example of these interventions, one could cite Operação Urbana Centro and Operação Urbana Águas Espaiadas [Urban Operation Spread Waters].

The possibilities of using TDR became broader with the edition of São Paulo’s 2002 SMP (Municipal Law 13.430/2002) and, later, with the edition of Municipal Law 13.885/2004, regulating the use, occupation and division of the municipality’s urban soil. Article 217 of 2002 SMP followed the same possibilities for using TDR than the ones provided for in the Estatuto da Cidade, a strong evidence of this federal law’s influence on municipal laws enacted after it. On the other hand, Municipal Law 13.885/2004, repealed in 2016 by Municipal Law 16.402/2016, provided for TDR in its article 24, referring to the provisions of 2002 SMP.



When the 2014 São Paulo's SMP (Municipal Law 16.050/2014) was enacted, TDR gained a new legal approach, this time with the provision of six possibilities for TDR's application, namely: (I) the preservation of historical, environmental, social and cultural assets as well as the preservation of assets with relevant contribution to the landscape, (II) the implementation of road improvements in order to create bus rapid transit corridors, (III) the implementation of planned parks located in the Urban Structuring and Qualification Macrozone, (IV) the preservation of private property areas of importance for environmental protection, located in Special Zones for Environment Protection, following the parameters established in the Law For Use, Occupation and Division of the Soil, and (VI) the implementation of social housing programs.

Currently, TDR can be operated two ways in the City of São Paulo, the first one being the property donation to the municipal government, and the second one being the alienation of development rights not used by the transferor property. Cases in which donation is not possible are those related to properties protected as national heritage and for its environmental interest, i.e. those provided for in article 123, items I and IV, of São Paulo's 2014 SMP. In the other cases, according to article 126 of São Paulo's 2014 SMP, the donation of the property is possible. Among these other cases, there is landholding regularization and the urbanization of areas inhabited by people living in poverty. The possibility for donation was first ruled by Municipal Decree 57.535/2016, but nowadays is ruled by Municipal Decree 58289/2018.

According to Flavia Peretto (2010, p. 104), the City of São Paulo's administrative procedure for TDR involves the issuance of two documents by the Municipal Department of Urban Development (Secretaria Municipal de Desenvolvimento Urbano – SMDU): the Declaration of Transferrable Constructive Potential and the Certificate of Transfer of Constructive Potential. The first document describes the number of square meters the property can transfer, while the second document describes the act of transferring constructive potential from a property to another. Flavia Peretto also states the requirement is mandatory for requesting the building permit of the receptance property, as it will be through it the transaction operation of the constructive potential will be attested. Thus, the landowner will be exempted from the payment of the public concession of development rights.

A last consideration about TDR in São Paulo concerns the difference between TDR and Transfer of Constructive Potential (CPT), an instrument that resembles TDR, but it is not the same. CPT is ruled by Municipal Law 12.349/1997 and can only be used in the area of Operação Urbana Centro



(Central Urban Operation). Therefore, CPT's usage is more limited than TDR's. Although both instruments coexist in São Paulo's urban regulation, there are some criticisms regarding the application of CPT, claiming it should be adjusted to Estatuto da Cidade's guidelines.

For that matter, Paula Santoro, Flavia Peretto e Silvio Oksman state that:

The Transfer of Constructive Potential, as used nowadays in the Operação Urbana Centro, is different from TDR, because TCP allows the owner of the property protected as national heritage to transfer up to the maximum number of square meters established by the basic floor area ratio of the property's zone. One of the most recurrent criticisms to the instrument lies there: the owner is allowed to transfer something that isn't his own, because the transfer rights beyond the basic floor area ratio are public. The Master Plan itself states that "the additional building potential is a public-domain asset owned by the Municipality, with urbanistic and socio-environmental functions" (art. 116) (SANTORO; PERETTO, OKSMAN, 2018).

While TDR allows the landowner to transfer only the amount corresponding to his basic development rights while observing the land's basic floor area ratio, CPT allows to alienate the maximum property's basic floor area ratio, which makes CPT much more beneficial to the landowner. In view of this, CPT indeed needs some adjustments, because when it allows the alienation of development rights which don't belong to the owner, but to the society, this instrument places public resources in landowners' hands, something that disagrees with every urban policy guideline.

Therefore, although TDR has a brief history in federal urban legislation, it is a valuable instrument that has been used by municipalities since the second half of the 20th century. Among TDR's objectives are the search for a balance between cities' density and the social management of urban land valuation. Besides, TDR could be used for landholding regularization of areas inhabited by people living in poverty, proving the social nature of the instrument.

## THE PROCESS OF LANDHOLDING REGULARIZATION OF PARAISÓPOLIS COMPLEX

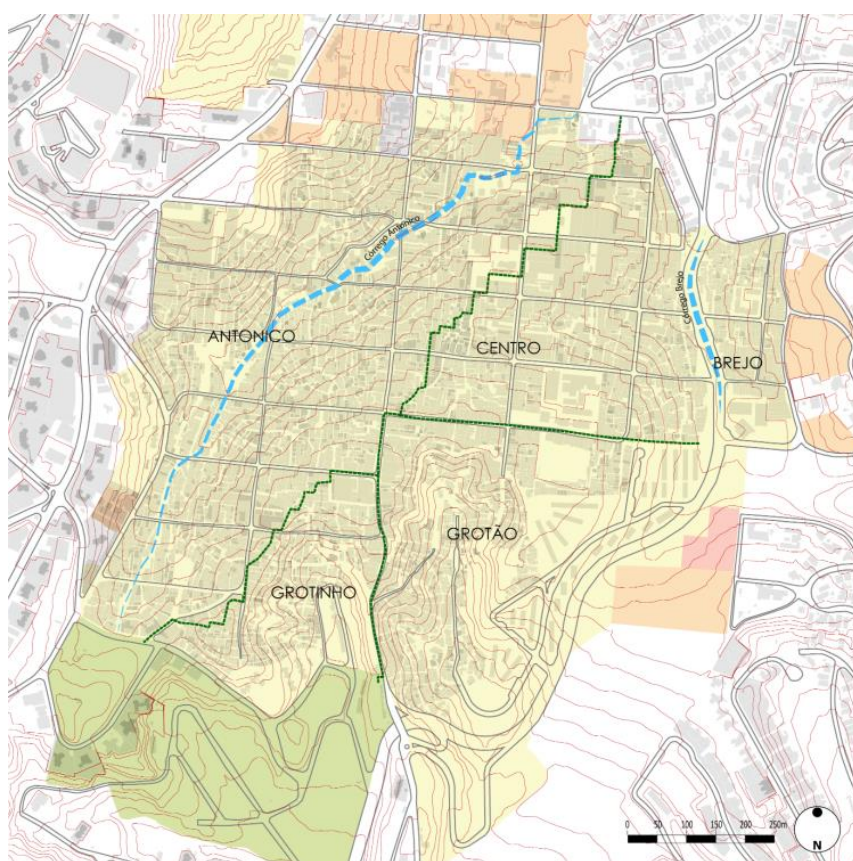


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Paraisópolis Complex is in the southern part of São Paulo, at Campo Limpo Sub-City Hall, Vila Andrade district, next to Morumbi. It includes Paraisópolis, Porto Seguro and Jardim Colombo communities. The complex is considered the second largest community of São Paulo in terms of population, with 42.000 inhabitants, according to Pizarro (2014, p. 106).

Paraisópolis is subdivided into five regions: Centro, Antonico, Brejo, Grotão and Grotinho. Centro (the Central part) is the oldest part of the community and the one with the highest area. Antonico and Brejo are areas crossed by small rivers that, due to the lack of sanitation, historically flood during periods of greater rainfalls. Grotão and Grotinho are considered areas of greatest socio-environmental vulnerability, as both are home to people living in huge poverty, next to slopes subject to landslides, according to Rezende (2019, p. 125-128).

Figure 1 – Division of Paraisópolis into regions



The formation of Paraisópolis dates to the beginning of 20<sup>th</sup> century, when an old farm named Morumbi, from the Dedenrichesen family, was divided into approximately 2.200 lots to be sold. However, part of the land was illegally occupied by invaders who intended to profit from speculation

in this area. According to Alessi (2009, p. 56), the irregular occupation escalated after the 1960s with the expansion of the real estate market and an increase in migration movements towards the southern part of São Paulo, a region that, at the time, offered many job opportunities in the civil construction sector.

São Paulo Municipality recognized Paraisópolis as a settlement in 1968, through the Municipality Zoning Law. In 1978, the Empresa Municipal de Habitação - EMURB (Municipal Habitation Company) created the first plan for the area's redevelopment. This plan included, among other measures, its consensual expropriation. However, due to the lack of financial resources, the project was not developed. In 1998, the first public interventions for urban improvement in Paraisópolis started to happen, and it was also presented to São Paulo City Council a draft bill for the institution of Operação Urbana Paraisópolis [Urban Operation Paraisópolis], which wasn't approved by the Council, according to Alessi (2009, p. 48-49).

The 2002 SMP created the Special Zones of Social Interest (Zona Especial de Interesse Social -ZEIS), aiming to initiate urban planning strategies according to the reality of each region of the City of São Paulo. The Municipal Law 13.885/2004, regulating the use, occupation and division of the municipality's urban soil, demarcated the Paraisópolis Complex as ZEIS-1 and ZEIS-3, ZEIS-1 meaning an area occupied by people living in poverty and ZEIS-3 meaning an area with a predominance of underutilized land or buildings. As a result, Municipal Decree 42.871/2003 was edited, assigning to Municipal Housing and Urban Development Department (Secretaria Municipal de Habitação e Desenvolvimento Urbano) the duty of preparing and implementing a landholding regularization plan in the community.

The regularization plan was named "Nova Paraisópolis" (New Paraisópolis). The main objective of this plan was carrying out interventions in medium and high-risk areas of the community, according to the definitions found in the Municipal Plan for Risk Reductions, elaborated by the Technological Research Institute (Instituto de Pesquisa Tecnológica – IPT). These areas were mainly located at Antonico, Grotão and Grotinho regions, the most susceptible to floodings, as they were located next to streams; and also the most susceptible to landslides and risks of fire, due to the high concentration of precarious wooden houses.

According to Tales Cunha, at the time of Paraisópolis' regularization:

[...] the municipality's housing policy was going through an intense reformulation process whose declared objectives could be found in the Municipal Housing Plan 2009/2024. The City Hall had then a significantly larger budget than in the



previous years, which, together with contributions from the Federal and State governments to the Housing Department of São Paulo (SEHAB-SP) allowed for an increase in the allocation funds for this area (CUNHA, 2019, p. 6-7).

Municipal Law 14062/2005, regulated by Municipal Decree 47272/2006, allowed the São Paulo City Hall to receive as donations properties intended to Paraisópolis' regularization, granting remissions and amnesties of tax debts levied on these properties. In order to calculate the transferrable constructive potential, it was adopted a formula considering the donated land's area or its basic floor area ratio, among other information.

The first initiatives of the urbanization plan happened in 2006. At the project's first stage, which lasted until 2008, some services as paving roads, the revitalization of Palmeirinha field (located at Grotão), building retaining walls, and channeling Brejo's stream were carried out. In addition, according to Maziviero and Silva (2018, p. 509-510) 56 (fifty-six) housing units were built and delivered to the community of Jardim Colombo A, as well as 278 (two hundreds seventy-eight) apartments of residential development Campo Limpo I, from the São Paulo State Housing and Urban Development Company (Companhia de Desenvolvimento Habitacional e Urbano do Estado de São Paulo – CDHU). This residential development area, despite being located outside the perimeter of Paraisópolis, was built exclusively to the Complex inhabitants.

At the beginning of the second stage of the project, in September 2009, 126 (one hundred and twenty-six) apartments of residential development Paraisópolis F, located among Grotinho and Grotão regions, were delivered (SÃO PAULO, 2009). Also during this stage, ended in October 2010, construction works of residential developments Paraisópolis A (one hundred forty-six units), B (two hundred units), C (one hundred eighty-eight units) and D (one hundred twenty-three units) were concluded, delivering a total of 783 (seven hundreds eighty-three) housing units. At the same period, it was concluded the construction works of Technical School Abdias do Nascimento, located next to Hebe Camargo Avenue, also a construction work carried out by the urbanization project. It was also started the expansion of water and sanitation networks, aiming to make these services universal in the community. The resources for the second stage came not only from the Municipality, but also from the Federal Government, through PAC-UAP, and from São Paulo State Government, through the Company for Basic Sanitation of São Paulo State (Companhia de Saneamento Básico do Estado de São Paulo- SABESP) and the Company for Housing and Urban Development (Companhia de Desenvolvimento Habitacional e Urbano – CDHU).



An important intervention carried out during the second stage of the urbanization process was the construction of staircases between different areas of the Complex, which was necessary due to the landform differences among these areas. This was especially important in relation to Antonico, a valley-shaped area. As Antonico holds the main commercial points and most of the community's social facilities, the access of who lives there needed to be easier, therefore the importance of constructing the staircases.

In the third stage of the program, between 2010 and 2013, social facilities were inaugurated, such as the Ambulatory Medical Assistance [Assistência Médica Ambulatorial – AMA] and the Unified Educational Center [Centro Educacional Unificado – CEU]. It was also concluded the residential development Paraisópolis E (one hundred and twenty-seven units), G (fourty-four units) and residential development Grotinho II (four units). According to Werneck (2018, p. 80), another 664 (six hundreds sixty-four) housing units were built by the City of São Paulo in partnership with CDHU throughout the urbanization process, some of them outside of the Complex, but intended for its residents. According to Cunha (2020, p. 157-159), only 399 (three hundreds ninety-nine) housing units planned at the beginning of the project, which should have been built in an area named Parque Sanfona, weren't concluded until today due to issues as the occurrence of a major fire in 2017.

During the third stage, some works have started, but weren't concluded, such as the drainage of Itapaiúna and Antonico streams, which demanded the removal of a significant number of people who lived at the riverbanks. According to Maziviero and Silva (2018, P. 513), until 2019, the drainage works at Antonico stream had suffered several stoppages and had not been completed yet. The drainage works at Itapaiúna river were completed after the deadline, but the construction of a linear park on its banks, as planned by the original project, has not been constructed until today. At the end of 2019, a new investment was announced by the State Government and by the City of São Paulo in order to construct the linear park and to finish the drainage of Antonico river, but these works haven't been completed yet (SÃO PAULO, 2019).

Another important work included in the urbanization plan, but that has not been completed so far, is the Paraisópolis station, known as the train line 17-gold, a monorail, which could improve the mobility for the community residents. When it was conceived, the Paraisópolis station was predicted to be delivered before the FIFA World Cup 2014, as it was intended to be one of the main access roads to Morumbi Station. However, as soccer games were moved to Arena Corinthians, in the east side of São Paulo, and due to the successive stoppages of the work, the inauguration was postponed to 2022.



Over the last few years, the residents of Paraisópolis have been demanding the return of the works, and at the end of 2020, the State of São Paulo signed a service order to continue it.

Also, the urbanization plan hasn't fulfilled the goal of universal access to water and sanitation, but managed to considerably expand these services to reach 90% and 89% of the community residents, respectively. Therefore, despite not covering 100% of the residences, the project hugely expanded water and sanitation services, serving mainly people living at Grotinho and Grotão, once vulnerable to environmental contamination due to the lack of sanitation. The channeling of Brejo and Itapaiúna rivers were also relevant interventions because it eased flooding in periods of greater rainfall and, consequently, improved the quality of life of the residents. If the same service had been occurred at every stream from the community, the positive results of the interventions would be even greater.

Figure 2 – Condomínio Paraisópolis F



*Source: São Paulo, 2009.*

Some field researches carried out after the landholding regularization, such as those by Rezende (2019) and Werneck (2018), have reported the satisfaction of the residents with the completed works, especially the construction of housing units within the community itself, a popular claim since the beginning of the project. Residents also praised the expansion of water and sanitation networks, the inauguration of social facilities and the opening of Hebe Camargo Avenue, an alternative nowadays for Giovanni Gronchi Avenue, a heavy traffic avenue in the southern part of São Paulo. On the other hand, the same researches point to a negative perception of residents about the

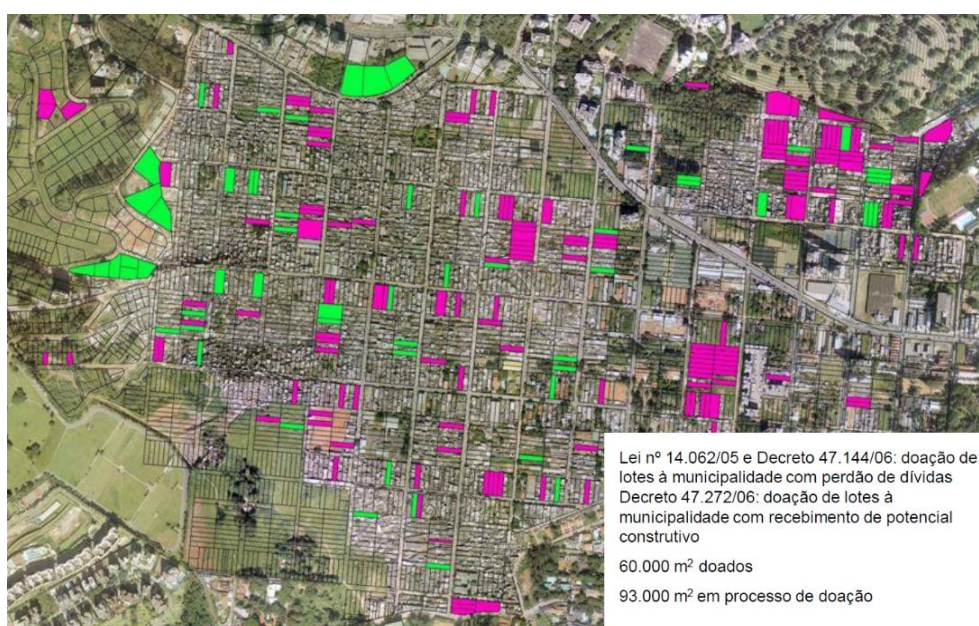


unconcluded works and the non-resettlement of hundreds of families who suffered expropriation of the lands they lived, and who are still on social rent afforded by the City of São Paulo.

In this regard, some considerations might be offered about Paraisópolis' landholding regularization project, especially about the use of TDR. According to data from the City of São Paulo, until 2013, around sixty thousand square meters had been donated through TDR to "Nova Paraisópolis" project. Almost all these sixty thousand square meters were used to the construction of social housing units; the remaining area was allocated to the inauguration of Hebe Camargo Avenue in an area expropriated for social housings.

According to official documents from March 2021, 211 (two hundred eleven) donation requests were submitted after the edition of Municipal Law 14.062/2005 and Municipal Decree 47.272/2006, of which 99 (ninety-nine) were granted, 100 (one hundred) were rejected, 11 (eleven) were withdrawn by landowners, and one is still under studies. Only 24 (twenty-four) of the properties donated had tax debts with the City of São Paulo. Most donation requests were made by residents of Grotão, but most of the accepted requests were from Antonico area.

Figure 3 – Map of donated properties in 2013



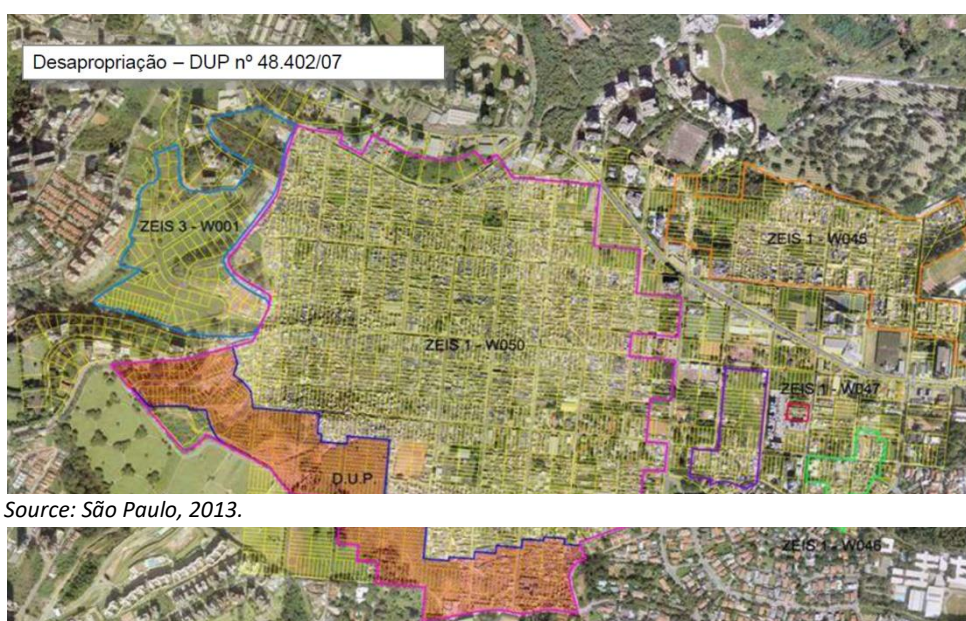
Source: São Paulo, 2013.

The City of São Paulo sought to regulate clearly the use of TDR in Paraisópolis, through laws and decrees providing legal certainty to it, which was positive from a legal and urban planning point of

view. However, it appears the results of TDR were limited to social housing objectives and, in a small part, to the construction of Hebe Camargo Avenue. In order to fulfill the other interventions, residents were removed. Grotão was the area who most requested property donations, but it was also the area that most suffered expropriations, and this deserves attention, as the main objective of TDR is avoiding removals and their negative effects. Therefore, if the donation requirements of the area's residents were granted, certainly the number of expropriations would be lower, as well as the number of families currently receiving social rents.

Although TDR and project adaptations have reduced the number of planned removals from 30% (thirty percent) to 10% (ten percent) of the residences, some expropriations still happened, mainly in geotechnical risk areas (most in the Grotão area), in non-donated properties needed for infrastructure works in Fazendinha area (at the border of Grotão area), which has about 200 (two hundreds) square meters. As a result, the number of families included in the social rent of the City of São Paulo raised considerably after 2009. According to Teles Cunha (2020, p. 182), in August 2019, 4.093 (four thousand ninety-three) families in Paraisópolis Complex were receiving social rent, which is the largest contingent of the whole program. Teles Cunha believes this is a result of a discrepancy between expropriations and the social housing units built in the community, as they were built in an insufficient number to solve the housing shortage in the area (CUNHA, 2019, p. 2)

Figure 4 – Expropriated area highlighted (Fazendinha)



This housing issue became even more complex after the enactment of São Paulo's 2014 SMP (Municipal Law 13.420/2014), as part of Paraisópolis was entitled as ZEIS-5, which means "lots or a set of lots, preferably empty or underused, located in areas equipped with urban services, equipment and infrastructure, where exists private interest in producing housing developments of social interest and for the popular market" (article 45, item V). In this kind of ZEIS, the social housing unit minimum can be reduced from 60% (sixty per cent) to 40% (forty per cent). The SMP also provides that popular market housing should be encouraged mainly in ZEIS-5 (article 292, item VIII), excluding most of Paraisópolis residents by income criteria.

The ZEIS-5 is located at the southern part of Grotinho, including an area that was greatly benefited by urbanization developments, especially because of the inauguration of Hebe Camargo Avenue and the installation of public facilities. The change in the zoning map becomes interesting for the real estate market due to the infrastructure built in the area, which allows a new front of real estate boom through social housing units. However, these changes make more difficult to resettle people who were expropriated if they still need social rent to live, because new private buildings that choose to settle in this area must allocate only 40% (forty per cent) of the built units to social housing, which will not be enough to solve the housing issue.

Therefore, it is important that government ensures families receiving social rent to be resettled as soon as possible, in order to prevent this exceptional and transitory situation to continue forever. Certainly, the social housing units of future buildings located in ZEIS-5 will not be enough to meet the social demand created by removals, and the solution will necessarily depend on government initiatives.

An important aspect of this project is the dispersal of new urban facilities outside the central area of the community. Ambulatory Medical Assistance, Health Basic Care Units (Unidades Básicas de Saúde), Psychosocial Care Centers (CAPS) and Educational Centers (CEUs) were built in Grotão, close to residential developments Paraisópolis A, B and D, as well as close to the social pavilion that was built next to Paraisópolis G and Vila Andrade G. The music school, still unconcluded, is also located at Grotão. The Technical School Abdias do Nascimento was built at Grotinho. The dispersal was positive, as it brought public services closer to the poorest areas of the community, allowing the population's needs to be met more efficiently. Furthermore, this dispersal could contribute to the creation of important sub-centralities, in terms both of provision of important public services at several points of the Complex and of private business initiatives, offering new employment opportunities for these area's residents.



Certainly, the “Nova Paraisópolis” project wasn’t the first to suffer from problems and to deliver results below the expected by government and society. Similar projects also faced difficulties and, in many of them, the effective integration of the community into the formal city couldn’t be achieved. As an example, Izaga and Pereira (2014) present urbanization experiences of Rio de Janeiro’s slums unable to conclude what was planned by the government, a fact that had repercussions on other regularization measures.

In Paraisópolis case, although some interventions weren’t fulfilled, the works that were completed made community’s life better, mainly because residents started to have greater access to public facilities, such as Technical Schools, Ambulatory Medical Assistance and educational centers. Besides, the construction of social housing units allowed hundreds of families to have access to adequate housing in their own community and to benefit from the expansion of sanitation network, which improved the environmental quality of many areas of the Complex. It is concluded “Nova Paraisópolis” was an interesting project because it used TDR, an urbanistic instrument little used in landholding regularization processes, and the results found might influence similar actions in the future.

## **FINAL CONSIDERATIONS**

The “Nova Paraisópolis” program was certainly an action of great importance not only for the benefited community, but also for the entire city of São Paulo, as it resulted in significant improvements in health, housing and urban mobility areas. However, the project did not solve the structural problems that afflict Paraisópolis and that prevent its residents from fully enjoying their social rights.

The regularization of Paraisópolis took place at a time when national urban planning sought the urbanization of subnormal agglomerates through major infrastructure works that aimed to improve the lives of its residents. It should be also considered the project coincided with a moment of Brazil’s and national real estate’s economic growth. Therefore, large financial contributions were destined by the City of São Paulo, by the State of São Paulo and by Federal Government to afford “Nova Paraisópolis” program. Thus, it is interesting to note how the project marks a paradigm shift in relation to the treatment given by the government to slums in the early 20th century, back when the eradication of slums using police forces was the establishment.



This research aimed to understand how TDR was used in Paraisópolis' landholding regularization, through encouraging land donations for the execution of urbanization works. It was concluded that the instrument, combined with adaptations to the original project, reduced the number of expropriations, which were concentrated in specific areas of the community. However, an exponential growth was still identified in the number of families that started to receive the social rent during it. Many of these families remain without perspectives of resettlement in the community itself. Therefore, TDR wasn't enough to supply the housing deficit that existed in Paraisópolis. Nevertheless, the number of expropriations increased the housing deficit, making it difficult to solve it nowadays.

In addition to the construction of social housing units, the expansion of water and sanitation networks, the inauguration of social facilities and the opening of public roads were the main positive results from the regularization. Almost all the constructive potential donated by TDR was used for the construction of social housing units and a small part for the opening of Hebe Camargo Avenue. Based on data from field research carried out after the urbanization, it was possible to note the satisfaction of residents with these works. On the other hand, the main negative results of the program were the incompleteness of other works, such as the channeling of streams, and the failure to resettle hundreds of removed families who are still dependent on social rent assistance.

While further studies about the contemporary experiences of Brazil's landholding regularization of slums are still necessary, Paraisópolis case allows us to infer that the government needs to pay attention to the proper use of urban instruments in regularization projects, or it might not fulfill resident's rights, or even might aggravate housing rights through expropriations. It is believed that a landholding regularization project must necessarily seek the social cohesion of urban spaces to make cities more egalitarian and integrative, which, to be achieved, also depends on the implementation of social assistance policies that promote health, employment, leisure and security for residents.

Without intending to generalize the results of this specific case, it is important to state that slums' landholding regularization policies still need to advance in order to ensure the social inclusion of residents based on the universalization of their rights, allowing an equitable access to the city and its infrastructure.



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