

Fighting for Planning for the First Time in Fortaleza, Brazil

Clarissa Sampaio Freitas

IN MARCH 2010, residents of informal settlements in Fortaleza, Brazil organized a public demonstration in front of City Hall to remind local leaders that they had recently approved a Participatory Urban Plan (PDP). The action highlighted the PDP's promise to prioritize urban problems of the low-income informal communities, as well as its failure to be implemented. Although the plan had already been approved for a year, nothing had changed; the city's development continued to be shaped primarily by the interests of its most powerful sectors, such as the local real estate industry and the emerging tourism economy. Similar public demonstrations took place regularly up until the Brazilian World Cup in 2014, as Fortaleza hosted several games and, consequently, drew attention from the international community.

A Shift in Planning Discourse Toward Inclusion

Many of the protesters had been actively engaged in discussing and creating the PDP. This process was initiated in 2004, when the Worker's Party was elected to municipal office and dismissed a previous planning proposal on the grounds that it had not been conceived with enough public participation. This local political development was born out of a national campaign to

implement an urban reform agenda, and was exemplary of changes taking place in Brazilian urban politics that were conferring visibility on the problems of informality induced by urban exclusion. One centerpiece of this campaign was the Statute of the City, a federal bill approved in 2001 that required municipalities to revise their urban plans and create new arenas of participation, levy heavy taxes on vacant serviced land and devise inclusionary regulations to combat land speculation. All these mechanisms were aimed at combating exclusionary urbanization, recognizing the rights of dwellers of consolidated low-income informal settlements and preventing gentrification. They built on the 1988 Constitution's notion of the "Social Function of the City," which stated that landowners' rights over private property ought to be subordinated to public interest (however contentious this concept may be).

Despite some questionable provisions with unknown origins, such as a requirement that private developers participate in *favela* upgrading projects near tourist areas, Fortaleza's PDP was conceived with a higher degree of popular participation than any other previous planning processes. Fortaleza was particularly receptive to the urban reform agenda, as the city had recently elected a Worker's Party mayor and instituting PDPs was an important part of the party's agenda. As a result, the PDP incorporated some important mechanisms for disrupting the city's deeply entrenched development practices, which had historically concentrated investments on better-off neighborhoods and evicted low-income informal dwellers to the periphery. The most significant of these inclusionary provisions is the Special Zones of Social Interest (ZEIS).



Clarissa Sampaio Freitas is a professor of Architecture and Urban Planning at Federal University of Ceará, and will be working as visiting professor at University of Illinois at Urbana Champaign in academic year 2015/2016.

ZEIS: A Brazilian Modality of Inclusionary Zoning

Special Zones of Social Interest have been conceptualized as the antithesis of the regulatory status quo, which uses low-income settlements' condition of informality to justify their exclusion from privileged spaces. By informality, they refer not only to lack of land tenure but also to non-compliance with urban codes, like lot sizes and street width requirements. ZEIS are special zones capable of redefining land use parameters in order to allow and incentivize affordable housing. Thus rather than establishing *minimum* urban parameters that frequently constitute obstacles for regularization of low-income settlements in high-valued areas, ZEIS establish *maximum* housing standards. In doing so, they intend to diminish the real estate industry's interest, and therefore reserve serviceable land

for affordable developments. This protection is necessary particularly in the cases of informal settlements that have been upgraded, because it is very common for these settlements to suffer a process of gentrification after they receive land tenure and urban investments.

If, on one side, ZEIS establish maximum parameters aiming to protect use values, they also require minimum parameters to assure basic urban conditions for residents. The mechanism used is a form of inclusionary land policy, which recognizes that the land question has been systematically disregarded by Brazilian housing policies. It differs from the internationally-known concept of inclusionary zoning, while sharing some similar goals.

Throughout Brazil, the most common features of ZEIS are maximum lot sizes, and the

permission of only one bathroom and one private garage per dwelling unit. Fortaleza's PDP established a maximum of 150 square meters for a single-family lot within ZEIS, and left other specific parameters up to each community's plan, which have yet to be conceived. The PDP designates 4,608 acres as ZEIS. 65% of this total was classified as ZEIS types 1 and 2, defined as existing settlements originated either from land invasion or from unapproved public and private developments, presenting various degrees of precariousness. They do not correspond to the totality of existing informal low-income settlements in Fortaleza, but they constitute settlements whose leaders were able to influence the PDP. The remaining 35% corresponds to ZEIS type 3. These comprise land described as mostly vacant or underused. The main criteria for choosing the ZEIS-3 areas was proximity to the other ZEIS that were too dense or had expanded over non-suitable sites, and thus would require an eventual relocation project.

In 2011, an episode involving a lot located at Campo do America, a consolidated low-income informal settlement in a very wealthy neighborhood classified as ZEIS -1, demonstrated this mechanism's inclusionary potential. The National Social Security Institute owned the lot, but for several decades low-income residents used it to play soccer, turning it into the only open space available in an increasingly dense area. In 2011 the Institute announced its intention to sell the lot, asking an initial price of R\$ 6.2 million (around US\$2 million). Fortaleza's



Photo: Luciana Ximenes.

July 20, 2011: The audience for the approval of the Environmental Impact Assessment of the Light Rail Line, one of the World Cup investments in Fortaleza.

City Hall demonstrated an interest in buying the lot in order to transform it into a publicly owned soccer facility, and asked for a new appraisal that considered the limitations of use established by ZEIS. The second appraisal resulted in a price 70% lower: R\$ 1.8 million (a little over half a million US dollars). This episode demonstrates that the mechanism can be an important tool in financing improvements to living conditions in low-income informal communities.

As any other Brazilian city, Fortaleza has severe problems housing the majority of its low-income population. The formal real estate market does not produce affordable units, and is not required to do so on a significant scale. The city is one of the most unequal Brazilian metropolises, and 35% of its 2.5 million inhabitants live in informal settlements such as Favelas, Cortiços, Risky Areas or pirate subdivisions. This percentage keeps increasing, despite the stabilization of migration from rural areas and a recent wave of macro-economic stabilization and growth. Such an increase in low-income informality points to the existence of factors other than poverty—such as land speculation—to explain the perpetual low-income housing shortage.

Despite the steadily worsening housing problem in Fortaleza and the increased political pressure from low-income movements, now empowered with the approval of PDP, local leaders still failed to put forward an agenda for implementing the plan. The new macro-economic scenario helps us in understanding why.

Loosening Its Bite

Since 2005, Brazilian urban development dynamics have undergone significant changes. The most important factor was a major increase in real estate financing, made possible with the stabilization of the economy, which produced a great deal of real estate expansion. This dynamic was compounded by the announcement in early 2010 of several urban investments in the twelve World Cup hosting cities, including Fortaleza. Urban land's rising exchange values soon constituted a major threat to any efforts to recognize informal ZEIS dwellers' rights to the city.

Take for example the case of Lagamar, an informal settlement in existence for more than 50 years. The settlement was not initially listed as one of the PDPs inclusionary zones, but after a series of demonstrations by residents the government acceded and the area was recognized as a ZEIS. A few months later, however, Lagamar had the bad luck of being crossed by two World Cup investments, a light rail line and a viaduct.

When Lagamar residents learned of the World Cup projects, they were electing local representatives to the ZEIS Council, which was meant to elaborate the local plan for Lagamar, define its development parameters, specify the necessary investments to upgrade the settlement, and select land tenure strategies. The ZEIS mechanism should have allowed them to negotiate acceptable compensation for any displaced families. Furthermore, many NGOs and academics – including the Department of Architecture and Urban Planning of the Federal University of Ceará – could have helped the residents to participate in the process of designing the investments and minimizing displacement and maximizing benefits for the community. None of this happened. Investments were not discussed with ZEIS Council members, they imposed several negative consequences for the remaining residents, and they further isolated a significant portion of the settlement from the rest of the city. The council also required a large number of evictions, moving the families to a housing estate located on a very peripheral site with no services and insufficient transportation.

While many residents suffered threats of direct or indirect evictions, the ZEIS type-3 (the land reserved by PDP for relocation) received several market-rate developments. They had been allowed by the final version of PDP bill, which contained an article that gradually converted ZEIS-3 to market-rate developments. Article 312 affirmed that for every 12 months the municipality failed to define the parameters for construction on these lots, 5% of the area would be released of its ZEIS restriction. To make matters worse, City Hall built a government building on a vacant lot within a ZEIS-3 without a building permit. They later passed a bill withdrawing ZEIS land use restrictions on the entire zone around that lot. Not coincidentally, that area was very near the World Cup Stadium and was therefore under a great deal of pressure for rising land prices.

In 2012, the same administration that conceived of and approved the PDP passed another bill, which removed land use restrictions for any lots within ZEIS-1 that met two conditions: not being used by a low-income population and demonstrating legalized land tenure status. It thus allowed profitable land uses unrelated to low-income housing if the government were able to prove legalized land tenure conditions. In doing so, the bill suppressed much of the ZEIS' inclusionary potential and imposed a contradictory situation: low-income developments were only protected when they were illegal, and by definition, illegal developments are not allowed. This bill has thus challenged the very central aspect of the mechanism, which is to legalize low-income informal settlement and protect them from real estate pressures.

Politicizing the Process

While ZEIS has gradually lost its teeth as a mechanism to reserve serviced land for low-income populations, its political meaning remained strong. The fact that it was backed by federal legislation and that it resulted from a participatory planning process transformed the instrument into an important political flag around which several progressive groups converged. Just before the 2012 municipal elections, a group of neighborhood associations in the peripheral neighborhoods of Bom Jardim

and Jangurussu called all candidates to a political debate, where they were asked to sign a document committing themselves to the residents' demands. The first of these demands related to the ZEIS agenda: to define the local Council of the Bom Jardim ZEIS; to allocate funding for investments in its deficient infrastructure services; and to devise a plan to confer land tenure to its residents.

Roberto Claudio, the newly elected mayor from an opposition party, signed the document but did not implement any of the ZEIS-related demands. Much to the contrary: of all the Statute of the City mechanisms included in Fortaleza's PDP, the new mayor's planning team chose to start implementing those that could more easily interest conservatives, such as the public-private partnerships and the commercialization of development rights. At the same time, several meetings promoted by Bom Jardim residents to discuss the ZEIS agenda took place without any municipal government representatives, despite their having been invited.

By discussing Fortaleza's unimplemented ZEIS, I am not asserting the impossibility of a progressive planning strategy in the context of unequal Latin American metropolises. My intention is to demonstrate why it is necessary to politicize the process of defining the rules that control urban development. The reason ZEIS is so difficult to implement is precisely its potential to distribute power. Before the existence of ZEIS, land use regulations were described as a technical activity, important to assure a vague notion of quality urban environments. Legal urban parameters often constituted the main justification for the removal of low-income settlements. After ZEIS, however, land use regulations became a political demand of housing movements. For the first time, we have witnessed Fortaleza's social movements claiming local authority to implement a municipal master plan, and to submit public and private investments to a previously established planning process. I hope the discussion of this episode will contribute towards the understanding of land use planning as a politically disputed process that has power to define which social groups have access to the city. **P²**



September 6, 2012: "Grito dos Excluídos," a public demonstration supported by Catholic Church organizations.