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Vertical urbanisms and the regulatory production of "urban volumes"

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Highrise Buildings, Urban Tissue and Urban Regulation: some questions in São Paulo

In the contemporary city, a cultural phenomenon that responds to parameters that point toward an era of transition, the urban space is a product and reproducer of the dynamics that guide its time; a living cultural space produced by social relations that are neither neutral, uniform nor exact, where the experience of belonging persists amid a group of transformations where the flow of local and global conditions seems to have an impact upon collective experience in the urban territory. In this context, where regulatory capitalism and entrepreneurial municipalities are participating in the promotion of singular urbanization processes to control the urban space, we analyse issues related to vertical urbanism in São Paulo.

In the contemporary scenario, residential high-rises are more than an architectural solution. Once a place for living, are now commodities of a global market where capital flows, fixed by developers (and municipalities), of a particular strategy of reproduction of the urban space: space as a business, a productive element and a condition of capital reproduction. In this process, urban space requires a new relation between the public power and the financial sectors, aiming not at the reproduction needs of the urban life but at expanding the social base necessary for the accumulation process.

This communication debates this theoretical framework in the context and hypothesis of the ongoing french-brazilian research "High-rise Living and the Inclusive City", presenting some preliminary results in São Paulo, Brazil, related to building typology, urban tissue, urban legislation and "false public spaces". São Paulo is a laboratory of high-rise living in the global South; its governance is facing intense pressures from the globalization of its real estate market that promotes 'innovative' spatialities and urban governance/management, privatization and transformations of the urban space. New dimensions and institutional networks that reconfigure territories tend to reveal the substitution of class/social divisions by lifestyles divisions.

Key words: highrise, urban transformation, urban regulation, innovative spatialities.

Highrise Buildings, Urban Tissue and Urban Regulation: some questions in São Paulo

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INTRODUCTION

This communication debates this theoretical framework in the context and hypothesis of the ongoing french-brazilian research "High-rise Living and the Inclusive City", presenting some preliminary results in São Paulo, Brazil, related to building typology, urban tissue, urban legislation and "false public spaces" - results that analyze processes of urban transformation, more specifically processes of privatization of urban space related to changes in land use and occupation laws in residential areas originated in OUCs¹. In this perspective, it analyzes, even if partially, aspects of hypothesis-questions present in the Highrise project, seeking: on one hand, to provide elements for the construction of a critical reflection of broader aspects regarding the production of the urban space; and, in the other, to subsidize the investigation of possible relations between urbanistic instruments and the economic, socio-spatial and real estate dynamics.

ABOUT THE CONTEMPORARY CITY

In the contemporary city, a cultural phenomenon that responds to parameters that point toward an era of transition, the urban space is a product and reproducer of the dynamics that guide its time; a living cultural space produced by social relations that are neither neutral, uniform nor exact, where the experience of belonging persists amid a group of transformations where the flow of local and global conditions seems to have an impact upon collective experience in the urban territory. In this context, where regulatory capitalism and entrepreneurial municipalities are participating in the promotion of singular urbanization processes to control the urban space, we analyse issues related to residential vertical urbanism and the privatization of the urban space.

In the contemporary scenario, residential high-rises are more than an architectural solution. Once a place for living, are now commodities of a global market where capital flows, fixed by developers (and municipalities), of a particular strategy of reproduction of the urban space: space as a business, a productive element and a condition of capital reproduction. In this process, urban space requires a new relation between the public power and the financial sectors, aiming not at the reproduction needs of the urban life but at expanding the social base necessary for the accumulation process.

This scenario, increasingly based on the phenomena of globalization and neoliberal politics, is not new. With the capital crisis that began in the 1970s and the transition to financial capital, the internationalization of the economy took on its own characteristics, characterizing a process was termed by some authors as a period of "economic globalization" (Schiffer, 1999). In this process the urban space became an element of reproduction of capital, marked by the financialisation of the city's production processes. However, the restructuring of capital also required a restructuring of the processes and procedures adopted to its (capital) reproduction in the urban space.

¹ Consortium Urban Operations (Operações Urbanas Consorciadas - OUCs) are defined as urbanistic instruments that rely on the public-private partnership to promote improvement actions in areas of the city - counting on the participation of the civil society in the definition of its priorities, it defends that these actions would be directed toward a common good. It is important to point out that OUCs, complexes urbanistic instruments that encompasses many aspects, are not the subject of this communication.

Within this context, capital investment patterns are altered, mainly in the productive sector and financial flows (Abascal, Alvim and Moraes, 2011), in order to constitute certain competitions that lead to business practices involving the private sector and the urban space - especially if we talk about large metropolises. Following the neoliberal logic, the state participation in the production of the urban space before the economic processes of globalization walks towards the so-called Minimum State.

In the context of capital accumulation and the intensification of the participation of private investors in a process that results in the increase of the privatization of the urban space, the State plays the role of a manager and a promoter that helps to reproduce capital. As such, it: defines attractive urban areas to the financial capital; associates processes and strategies that favor the reproduction of capital in urban space with ideologies that legitimize it; flexibilizes laws of land use and occupation, helping to reproduce capital². This process, when privileging financial capital and the real estate market, occurs to the detriment of social interests and the public dimension, aggravating processes of gentrification and privatization of the urban space, besides the sociospatial segregation.

SÃO PAULO AND THE OUCS

The OUCs are, in theory, an instrument that, through the suspension of the zoning regulations in a target area, integrates urban design and synchronized actions between public and private power, related, for instance, to housing, mobility, public spaces and green areas. This model does not originate in Brazil, but from the state collection crises that occurred in the US and Europe in the 1970s, which promoted policies aimed at "joint responsibility for city management by all the agents involved in the production of urban space "(Maricato; Ferreira, 2002). It is a model of action that involves the cooperation between several agents in the decision-making process, introducing new practices in urban policies. The urban project becomes, therefore, an instrument of analysis and negotiation between the public and private spheres, having as main actors, among others, the public power, large constructors, incorporators, companies, architectural offices. In this scenario, it may be conducted in different ways, stimulating privatization or reinforcing the public essence of urban management. Consolidated in the City Statute in 2001 (Federal Law No. 10,257 / 2001), the OUCs present an objective of promoting transformations in the urban space, as well as social and environmental improvements of a delimited area of the city.

Its proponents argue that the OUCs are an important urbanistic instrument to promote urban improvement works, as well as a viable alternative even in times of fiscal recession. Much of this acceptance of the instrument is due to the fact that the OUCs carries an idea of contemporary urban planning and design that present alternatives against the moorings of modern urban legislations through the flexibilization of zoning laws and urban legislation. However, as Maricato and Ferreira (2002) and Fix (2004) argue, the way in which this instrument is used in the metropolis of São Paulo reveals how discourse distances itself from practice - in such a way that not the technical instrument and its laws are the subject of questions, but their formulation and implementation at the municipality level. In this context, political issues that tend to privilege demands of capital over the common good.

However, the supremacy of capital and private initiative over other spheres in the neoliberal context implies, usually, that neither social State interests nor the dimension of the civil society

² Cases in which the State acts as mediator in the reconciliation of strategies for the reproduction of capital and the socio-economic interests of private entrepeneurs. Once these interests are not always coincidental, sometimes the State also takes responsibility for the ideological construction, spreading social consensus that make it appear that the interests of the real estate sector are also the collective interests. Such consensuses legitimize operations that, aimed at becoming interesting to finacial capital and generating profits to the private sector, do not always prioritize the social interest of the State. Within the strategies adopted in the production process of the contemporary city, the projects of revitalization - or requalification - of fragments of the city are clear examples of this type of performance.

representation will be effective. In São Paulo, such urban policy is characterized by a practice that tends to privilege the private initiative, not public interests.

HIGHRISE RESIDENTIAL, URBAN LEGISLATION AND PRIVATIZATION OF THE URBAN SPACE IN SÃO PAULO

The mercantilization of the urban space production, linked to public-private initiatives, has unequally affected regions and cities of Brazil. It is not surprising that the city of São Paulo, due to its political and economical inlfluence, its size and infrastructure, has been one of the most affected areas, registering significant socioeconomic transformations in its territory. What is seen in the territory of São Paulo is "a growing increase in the duality between the areas where dynamic activities, called global, have become entrenched and the peripheral areas" (Schiffer, 1999). This duality is aggravated by the mechanisms used by the public power itself, through the unequal distribution of public infrastructures and the reaffirmation of certain "locus" of commercial and financial activities in counterpoint to other areas excluded from urban planning.



Image 1: OUCAE Public Interventions (left); Object of study, area 2 OUCAE (right). Source, GeoSampa. Produced by the author.

The creation of OUCs, associated with the new urban planning instruments defined in the City Statute, allows the breaking of the traditional model of urban zoning in which the right to build is associated with the property right - in which, the owner could build what determined by the land use legislation, urban laws and occupation rule. In the new context, concepts such as created soil, onerous granting of additional construction rights or CEPACs have broken this link³.

In the area of analysis of this article, inserted in the OUCAEs⁴ Brooklin sector (see Image 1), we observe a recent verticalization process, a boom of new highrise residential buildings in contrast to

³ Created Soil (Solo Criado), Onerous Granting (Outorga Onerosa) and CEPACs (Certificates of Aditional Building Potential) are urbanistic instruments that allow the transference or acquisition of building rights. OUC Água Espraiada defined, in a specific law, that all the infrastructure planned should be financed with funds obtained from the sale of CEPACs. In other words, in order for OUCAE to provide resources to carry out such interventions, it was necessary to ensure that private investors acquired CEPACs. However, being a security subject to valuation and devaluation, it was necessary to present factors that would attract investors' interest in the purchase of the CEPACs.

⁴ The OUC Água Espraiada was instituted by the Municipal Law no. 13.260 / 2001, became part of Strategic Master Plan of the Municipality the following year, under the control of Emurb (Municipal Company of Urbanization), during the management of Marta Suplicy (2001-2004) and amended by Law no. 15,416 / 2011. It was the first to be considered, since its inception, as a Consortium Urban Operation (OUC), and it was to be approved after the City Statute. The operation is developed in an area of 1,373.32 ha, alongside Avenue Água Espraiada (now Avenida Jornalista Roberto Marinho) and sectors of the avenues Luis Carlos Berrini and Chucri Zaidan all the way to João Dias Avenue and the Marginal Pinheiros River. Therefore, connected to a new area urban intervention now defined as priority by the City Hall, the Jurubatuba Arch.

the predominantly horizontal occupations on the other side of the Avenida Jornalista Roberto Marinho, that presents a particular phenomenon of privatization of the urban space. The following images (Images 2 and 3) allow the visualization of this intense process.



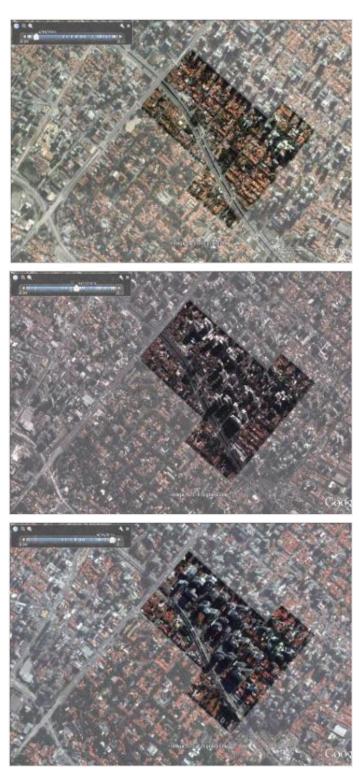


Image 2: Area 2 OUCAE, Location and aerial views 2005, 2010, 2015. Source Google Earth. Produced by Luiana Cardozo.



Image 3: Area 2, identification of new highrise residential buildings, 2000-2015. Source Centro de Estudos da Metrópole – Database and Google Earth. Produced by Luiana Cardozo.

OUCAE has a strong verticalization process⁵, especially in the Brooklin sector and its new medium and high standard highrise residential condominiums. The area described in this article, a fragment within the Urban Operation, is representative of significant urban transformations, mainly related to changes in land use and occupation, as well as to a considerable increase of the buildings heights. More than the verification of a verticalization process within the perimeter of the OUCAE, we observe an unequal distribution of this process, with a strong occurrence in the Berrini sector and few in the Jabaquara and Americanópolis sectors (see Image 4).



Image 4A: OUCAE Built Area and Tipology. Area 2, the third from left to right. Source OUCAE Report, 2014.

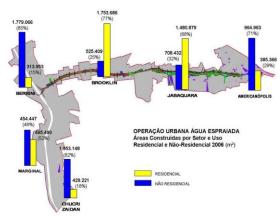


Image 4B: OUCAE Built Área, Residential and Non-Residential. Highrise. Area 2, the third from left to right. Source OUCAE Report, 2014.

⁵ Aiming at the production of inputs and material that would provide a better understanding of the OUCs in the city of São Paulo, as an urbanistic instrument that participates in larger and complex processes of production of urban space, the first data collection task was a survey of cartographic bases which could contribute to the analysis of real estate and socio-economic dynamics in progress in the territory of São Paulo, as well as the distribution of infrastructure, equipment, uses, ZEIS, income, among others. To do so, the following sources were consulted: GeoSampa and the Municipal Department of Urban Development sites in the webpage of the Municipality of São Paulo; IBGE database; Database of the Center for the Study of Metropolis (CEM). From these sources, images with data that allow the analysis of the relation of urban operations to the production of the space of the city of São Paulo were taken, aiming at: the understanding of land use and verticalization patterns of the urban space; commercial and residential ventures launched between 1985 and 2013 in São Paulo with an approximation to the perimeter of the OUCAE - cartography generated in the QGIS software; Urban Intervention Projects (PIUs) - contents of Decree 56.901, made available on the portal GestãoUrbanaSP (which helped to understand issues of the more recent urban policy in relation to OUCs in São Paulo).

Fieldwork developed to deepen the analysis of the degree of transformation of the urban morphology of the study area - Area 2 / Sector Brooklyn -, allowed the identification of two important transformations: the remembrance of lots for new highrise residential developments (a result from urban legislation implemented); the change in the socio-spatial practices due to new 'public areas / sidewalks'. The better understanding of the building typology, as well as the sidewalks setbacks, allow the questioning of the proposed public spaces of fruition.

The urban legislation, at that time, defined spaces of fruition as open areas located on the ground floor of the real state that could not be closed with buildings, installations or equipments. According to the legislation, the main objective of a fruition space, in areas not smaller than 250.00sqm and width not less than 4.00m, would be to potentialize and improve the provision of qualified areas for public use, to privilege the pedestrian and to promote the development of activities with social, cultural and economic value. Law No. 13,260 of December 28, 2001, which implemented the OUCAE, defined urban parameters for OUCAE sectors with incentive rights for real estate projects.

In fact, the Brooklin sector had guidelines that were distinct from the other sectors in relation to the minimum lot (2,000.00 m²), minimum front (25.00 m), and the widening range of the qualified sidewalk as a public use. In fact, according to parameters of the law, the public spaces of fruition, by increasing the built potential, made possible the densification, the verticalization and the increase of the built area. However, reality has implemented another space, other than the one idealized as a counterpart of these incentives, in the so-called spaces of fruition.



Sidewalk setback, possible public space of fruition.

Image 5: Residential Blanc. Source http://www.cyrela.com.br/imovel/blanc-campo-belo-apartamento-campo-belo-zona-sul-sao-paulo-sp#secao-o-imovel

What is observed is a landscaping that is restricted to the edges of the walls and sidewalks, conforming a kind of "ornament" in the already delimited path of the pedestrian. There are no spaces for public use, but vegetation stripes that surround the limits of the condominiums. In fact, the landscaping of these spaces ends up influencing the access control, making certain areas not possible for meeting and socializing, or even walkable, either by gaps, water mirrors or vegetation, ensuring that the flow of people is restricted. In addition, associated with other mechanisms, landscaping is also one of the elements responsible for the control and security of the site. All buildings have technological devices and security at their entrances, as well as others that guard the free space, supposedly of fruition, preventing unwanted people or behaviors that they deem "inadequate".



Image "6: Residential Sophistic, area 2 OUCAE, Brooklin Sector. Image: author.

Analyzing the following three set of images (Images 7, 8 and 9), it is possible to verify that OUCAE's "Public Spaces of Fruition" are, in fact, strips of vegetation alongside the sidewalk, surrounding walls and bars of vertical residential condominiums. They are, in fact, spaces that are shaped like a kind of "ornament" of each building, establishing borders and distancing the pedestrian from the limits that separate the public from the private.



 $Image\ 7:\ Sky,\ Fascination\ Penthouses,\ Campo\ Belo\ Design\ e\ Cube\ Campo\ Belo\ highrise\ residential\ buildings.\ Images:\ author\ and\ Luiana\ Cardozo.$



Image 8: Supremo, Sophistic, Vittoriale, Code Campo Belo e Blanc Campo Belo highrise residential buildings. Images: author and Luiana Cardozo.







Image 9: Campo Belo Du Champ, London Blue, Gabrielle, Helbor Atmosphere, Campo Belíssimo, Vision, Particolare e Altto highrise residential buildings. Iamges: author and Luiana Cardozo.

FINAL OBSERVATIONS

Law 13.260 / 01 establishes that property owners in the OUCAE area who adhere to the guidelines contained in the urban operation law may benefit from some constructive incentives. In addition to incentives granted for lot remembrance situations, this law also mentions the counterparts for projects that donate the sidewalk extension for public use (provided they comply with the minimum widths stipulated in the law):

Article 17. In addition to the specific guidelines established in articles 5, items I to VII and 6, and the payment of the consideration counterpart, for the use of the benefits provided in this Law, the owners of properties contained in the perimeter of this Consortium Urban Operation shall donate to the Municipality, the strip intended for the widening of the sidewalk mentioned in items I, b, II, b, III, b, IV, a, V, a and VII, 'b', of article 5 of this Law, receiving as an incentive the addition of twice the area donated to the remaining area of the property, for the purpose of applying the indices and urban parameters, respecting the maximum coefficient of construction (built area exlotaition) of the Sector acceptable in the lot.(LEI 13.260 / 01)

Therefore, the free 'public' areas witnessed in the new developments in the Brooklin sector were approved within the OUCAE's own law, which guarantees, as a counterpart, "double the area donated to the final built area approvedo to the building."This article introduces aspects of a first analysis related to the process of urban transformation that investigates the relationship between legal instruments, densification and verticalization and "Public Fruition". In this sense, to understand the spatiality of the information presented contributes to analyzes relative to urban transformations and the dynamics of capital. It is therefore appropriate to inquire about the possibility of other norms that establish similar guidelines as counterparts for real state that offer Public Fruition Spaces.

More recently, São Paulo has had its Strategic Master Plan (Plano Diretor Estratégico-PDE) revised, incorporating new perspectives on territorial planning, including subdivision of the metropolitan area into macroareas of metropolitan structuring. These macroareas include Structuring Axis of Urban Transformation (Eixos de Estruturação da Transformação Urbana), regions with a good supply of infrastructure and that has undergone processes of urban transformation. According to the PDE 2014, these spaces should be thought as territorial ordering plans and urban interventions should follow the guidelines of the urban planning instruments gathered in the form of the Urban Intervention Project (Projeto de Intervenção Urbana- PIU). PIUs, as established in the Law 16.050 / 2014, does not substitute the OUCs as an urban development instrument, but rather incorporate other instruments such as Urban Concession, Urban Intervention Areas and Local Structuring Areas.

The 2014 PDE presents an awareness that São Paulo is an unequal city and that the main economic activities, the greatest employment opportunities, the best public transportation conditions are concentrated in the most central area of the city, or in centrality areas. In this context, the new Plan proposes the densification of these areas with a better urban quality, contributing to a closer proximity to the work market and the reduction of daily travelling times. In this way it is believed that it is possible to build a more human and inclusive city⁶, stimulating the use of space and public transportation, thus contributing to a better quality of life for its inhabitants.

⁶ Although the notion of an inclusive city is, in itself, a necessary debate, as well the parameters and the social-cultural context of inclusiveness, but both are not addressed in this paper.

Law 16,050, dated July 31, 2014, related to the new Master Plan of the city, reaffirms the definition of Space of Public Fruition as ground floor spaces intended for public use, which can not be closed with buildings, facilities or equipments⁷.

According to the Master Plan, which is currently subject to a new review, constructive incentives have been established for projects located in the area of influence of the EETUs. However, the possibility of aditional built area for real state developments that implement 'public spaces of fruition', are granted as building potentials provided that these donated spaces meet the following criteria: "I - the area intended for public fruition must have at least 250m² (two hundred and fifty square meters) and be located next to the alignment of the street, at the level of the public sidewalk, without closing and not occupied by constructions or parking of vehicles;II - the area destined to the public fruition must remain permanently open;III - the area destined to the public fruition is duly registered in Registry of Real Estate." (Law 16.050 / 2014, Art.82).

However, it is not clear in the text of the Master Plan whether these incentives are only attributed to spaces located in the areas of influence of the EETUs or whether they may also be valid for any enterprise in the city of São Paulo, since, in Article 43 of the same law we read: "The revision of the legislation on land parceling, use and occupation may provide for urbanistic incentives for landowners who donate to the municipality areas necessary for the expansion of the road and/or green area system, or provide mixed uses in the same lot, or produce units of Housing of Social Interest, or yet to allocate frontal setbacks to spaces of public fruition, among other measures established by law." (Law 16,050 of July 31, 2014, Art. 43)

It is known that the great majority of the real state developments identified in the study are prior to Law Plan 688/13, which proposes the urban planning guidelines for the revision of the Master Plan. That is to say, the spaces of public fruition offered by these developments could not be approved according to this law. On the other hand, if we observe the definition for spaces of public fruition presented in the consolidated text of São Paulo's PDE, even if the Urban Operations are not incorporated in the EETUs, the evaluation of the free spaces of public fruition found in the OUCAE Brooklin sector remain necessary because the new law: establish criteria for the concession of constructive incentives; have characteristics that correspond to the definition of this urban parameter; define areas open to the public, located on the ground floor of buildings and not occupied by any other construction..

Mogin states that the contemporary city is more than the sum of its parts, it is more than the agglutination of its buildings, that the phenomenology of space depends on the enjoyment and fruition of the urban space in its multiple conditions, from the daily life scale to the metropolitan scale, questioning the current forms of living this diversity (Abascal and Alvim, 2013).

In this context, to reflect about the OUCs in São Paulo is more than analyzing their areas of action, since, in most cases, urban interventions resulting from the implementation of this urbanistic instrument end up sprawling the perimeter of the urban transformation area defined, most of the time articulated to hegemonic logics of production of the urban space.

It is not only a question of understanding the transformations occurring in the areas determined by the legislations, but of observing these instruments as part of a model of action that involves the cooperation between several agents in the decision-making process and introduces new practices in urban policies. So that, the urban project is thus an instrument of analysis and

⁷ Nonetheless, there is an exception for building areas. Every urban lots (areas), inserted in an EETU, with more than 5,000.00m² and less than or equal to 40,000.00m², must necessarily "offer areas for public fruition equivalent to at least 20% (twenty percent) of the area of the lot, in free or built space, at the level of the public walkway or on the ground floor "(Article 79 of LEI 16,050 of July 31, 2014).

negotiation between the public and private spheres, and can be conducted in different ways, stimulating privatization or reinforcing the public essence of urban management.

This article sought to outline a brief panorama of OUCs as an urban instrument and and its application in the city of São Paulo, specifically in an area of OUCAE. What is observe, above all, is the predominance of private interests to the detriment of the public ones, even when the logic should be the reverse.

OUCs, legal mechanisms by which state regulation must assert public interests in welfare and social equity, in many cases contribute to the supremacy of private capital. Therefore, taking into account the interests of the real estate market and stimulating capital reproduction in a new stage of 'city as a business': city as commodities. In this way, financial sectors and the real estate market are increasingly becoming an organizational element of the city's urban space, determining densification and verticalization parameters through the use of urban planning instruments established in the legislation.

Thus, a major need is better understand and question the instruments by which a city's marketing urban management project is established, as well as its consequences, built and social, to the urban space.

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