

Social function of property through compulsory utilization? The example of Maringa

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This paper deals with the outreach of urban planning instruments that are aimed at the social function of private property, more particularly the Compulsory Subdivision, Building or Utilization of land (CSBU). This instrument, as well as its complement, i.e. the progressive property and land tax (over time) are mentioned in the constitution of 1988 and, subsequently, regulated by the City Statute (CS), a federal framework law that was approved in 2001.

The CSBU requires land or real estate to be subdivided, used or built upon. The obligation is established by the State in relation to property owners so as to anchor a conception of property rights that is subject to collective-social interests. As such, the instrument was expected to contribute to the reduction of excessive escalation of land prices and values and to promote the organization of land use and development.

The City Statute requires that municipalities approve and revise their Master Plans according to its guidelines and instruments. This legal obligation triggered a significant increase in the number of plans. However, in the majority of cases, the regularization and application of the instruments aimed at containing land Price escalation did not happen (SANTOS JUNIOR & MONTANDON, 2011).

Despite of the importance of CSBU and its incorporation in many of the new master plans, there are few experiences of cities that have effectively used the instrument. Research undertaken by Denaldi et. Al. (2015) showed that in January 2014, from a sample of cities with more than 100.000 inhabitants, 25 regulated CSBU and only 8 have started its implementation. Moreover, it was reported that only the cities of Maringa and São Bernardo do Campo have started using progressive property and land taxes (over time) until the end of 2014. (DENALDI et al, 2015).

Considering the strategic role of the instrument, it is important to analyse and evaluate experiences that have achieved progress in implementing it. In that sense, Maringá is noteworthy in terms of the scale of the notification of property owners, its continuous application and the application of progressive property and land taxes over time.

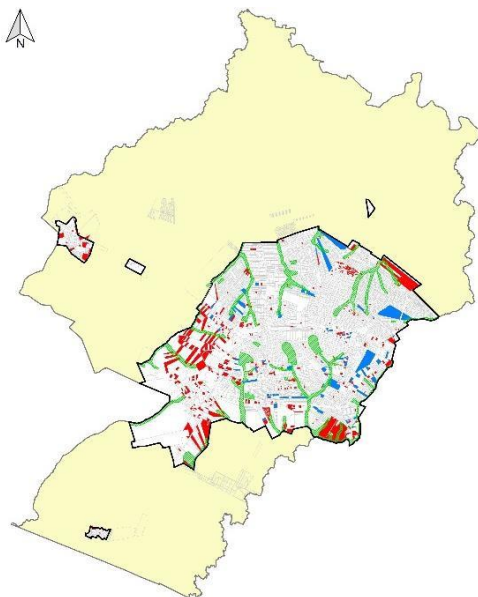
In order to understand the results that were established we identified through documental research and interviews:

- (i) The underlying territorial logic of the instrument (land use);
- (ii) The responsiveness of property owners to the notification in terms of land utilization;
- (iii) The perception of real estate actors;
- (iv) Behaviour of the Market in terms of the choice of areas to be used (and their location) and their relation with the instrument;

Maringa is located in the state of Paraná (Southern part of Brazil) and has 357.077 inhabitants and a surface area of 487 km². In 2006 it approved its new Master Plan that incorporated the instruments established by the CS.

In the period 2009-2013 it notified through CSBU approximately 700 owners of vacant, not built upon or underutilized areas. This amounted to around 14,5 km² and corresponded to around 11% of the urban surface area of the municipality. While in the first phase, between 2009-2010, 105 areas –summing up 4,2 million m² – were notified, in the subsequent stage, between 2012 e 2013, this number increased to 10,3 million m². During the first stage, central and intermediate areas were notified. The analysis shows that the underlying intention was to select vacant areas in parts of the city with better infrastructure conditions. However, in the second stage, the research shows that around 50% of the notified areas (5 million m²) are located in the outskirts of the urban perimeter, close to the division with the rural zone, not always disposing of a consolidated infrastructure network.

Maringá: Notified Areas of the CSBU in the First and Second Stage.



Within a sample of 705 property owners that were notified during the two phases, 41 of them presented subdivision proposals, corresponding to around 6 million m². Of this amount, only two properties, summing up 1,5 million m², went through the approval process, although until the beginning of 2015 these hadn't started construction yet.

As a paradox, 160 new subdivision projects, summing up around 20 million m², had been approved or were either in the approval process or being implemented outside areas delimited for CSBU.

According to actors operating in the real estate sector, the restrictive legal parameters of the Master Plan generated challenges or non-viable outcomes for potential development projects of notified areas located closer to central areas of the city with higher land prices. This more restrictive pattern is related, for example, to the minimum plot size (400 m²), as well as types and land use permitted.

The assumption that the application of the instrument would contain land price escalation was not confirmed. Work developed by Amorim (2015) demonstrates that between February 2010 and November 2014 land prices in Maringa developed according a linear curve, generating real increases per square metre of a little over 100%. The application of the instrument was also not articulated with the urban planning and management strategies. Instead, the latter were designed and

formulated with co-participation of the real estate sector.

Thus, there is no inherent link between the application of CSBU and the social function of property rights. The approval of the CS and the application of its instruments shifted the debate on urban reform and the “right to the city” to the sphere of urban regulation. This has proven a trap, considering that these instruments merely constitute a toolbox and its performance depends on the effective application by the state that itself represents a social relation (KLINK & DENALDI, 2015). This toolbox can be appropriated by the real estate market and not comply with its ultimate objective, or its application might not be effective when dissociated from the political sphere or local arenas.

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