

The effectiveness of Water Sources Restoration and Protection Law according to municipal management in metropolitan São Paulo

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In Sao Paulo, the State Law for the Water Source Protection (LPM) nº 898/1975, followed by Law nº 1,172/1976, set out the watersheds that should be protected to ensure the production of water. The context for this legislation's formulation was one of intense population growth in the metropolitan region of Sao Paulo (RMSP), which increased the demand for water and pollution input in dams due to non-full sewage treatment. With the advance of metropolitan horizontal and population growth, the main goal of LPM was to protect water sources and supply dams water by controlling the use and occupation of land located in the watersheds, through the establishment of urban parameters that were more restrictive the nearer they were from the dams. Thus, the aim was controlling population and building density in the occupation in the watersheds.

At the same time, there were the opening of irregular settlements and occupations by slums, which were more intense from the late 80s to the 90s at Guarapiranga and Billings watersheds, as a result of insufficient housing provision by the State, economic crisis, unemployment increase and family income more compromised with the rent (whether in tenements or slums). This scenario made the popular allotment an alternative to access to housing. In this way, the law intended to implement an abstract model over a real dynamics of land occupation.

Since then, it's been almost 40 years, during which the urbanization process has been changed, so as the laws, programs and practices on the territory of watersheds of the public water supply dams, inserted in the RMSP. Currently, the

specific laws in force for the Guarapiranga and Billings watersheds are the State Law nº12,233/2006, LE-Guarapiranga and State Law nº13,579/2009, LE-Billings.

After this long period of application of these laws, it seems necessary to evaluate the effectiveness of specific laws of Guarapiranga and Billings watersheds approved and implemented, by identifying the application barriers according to the municipal administrations, and then collaborate with future laws formulations and improvements. The research presented here was developed as Technical Consultancy for a team, on which the authors participated. Names were omitted in this summary, in view blind evaluation.

For achieving these goals, it was proposed a working methodology to be conducted with the municipalities and State agencies that work on the issue of water sources and the incorporation of results of research previously carried out by the team. Interviews were conducted in four municipalities selected as case studies for analysing the main issues relating to water sources as well as the project approval procedures in four protection areas, two of them at Guarapiranga watershed (Sao Paulo and Embu) and the other two at Billings (Sao Bernardo do Campo and Santo Andre). In addition, there was an interview with CETESB, the public agency responsible for environmental licensing of Sao Paulo. Those five interviews generated material used in a workshop with the participation of municipalities managers and CETESB itself.

The difficulties and doubts collected on the survey with the four selected municipalities were classified into themes: institutional, land tenure, new building works and public works. Some of these difficulties and doubts are present in more than one municipality, others are specific to a single case.

At the Institutional theme, it appeared the weakening of municipal technical staff and the consequent expansion of outsourced services; difficulties with bidding and contract; quality problems of the contracted urban project; recurring breakdown of procedures in various departments, both for regulation and for new works, sometimes facing problems when dialogue is needed; and the lack of a more powerful information system in this decentralized operation (the problem is not decentralization, but rather the lack of a better information system, more integrated).

At the **Land Tenure** theme, focused on social interest settlements, the issues that highlighted were: the need of a better definition for the characteristics of Adjustment Programs of Social Interest (Programas de Regularização de Interesse Social – PRIS); equivalent cases, starting from different agencies and having different outcomes; the need to adapt the understanding and designation of PRIS according to each municipality; the need to articulate the categories of specific law with the categories of the Master Plan and the land use and occupation legislation.

At the theme New Building Works, which was beyond the general cases with their different typologies, discussing also the particularity of public works and the adjustments that were not of social interest, highlighted the confusion between municipal and metropolitan licenses and the approval and licensing that does not occur without the CETESB, even if there are municipal responsibilities in the Specific Laws (LE).

And, finally, at the Public Works theme, it appeared the difficulty of obtaining property documents required for licensing.

In general, it appears to be clear that the main issues to be faced for the effective recovery (dealing with liability) and protection of water sources (not yet occupied and strategic for the production of water) do not require changes exactly in the prevailing laws, but a better fit among Ordinances, Resolutions, Board Decisions and/or Service Standards. These main issues are responsibility of operational and institutional coordination framework, in order to implement the planned. It's important to note, however, that there are articles and proposals of specific laws Guarapiranga and Billings that can be improved, considering the experience acquired by implementing them in recent years, without implying a structural change in the legislation.

In summary, the Specific Water Sources Laws managed to address some issues on licensing and liability management, but are far from being the instruments to promote environmental protection. They managed to do what laws are able to: prevent the installation of formal enterprises that depend on licensing. They did not work, of course, for what they are not made for: plans and actions of environmental protection and recovery.