

Catharina Christina
Teixeira

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THE SOCIAL INTEREST HOUSING
DECREES AND THE LOOSENING OF
LAND USE STANDARDS IN THE CITY OF
SÃO PAULO FROM 1992 TO 2016

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ABSTRACT

The creation of legislation for Social Interest Housing (HIS) development in Sao Paulo came from the need to foster a legal framework for the city's housing policy in 1992. There were three main decrees from 1992 to 2016: decrees no. 31.601/1992, no. 44.667/2004 and no. 56.759/2016 along with debates about Municipal Master Plans. The latest two of them have also been influenced by the Statute of the City. The first two acts represented significant advancements regarding the configuration of housing clusters, by reducing large-scale residential development in favor of housing in central areas and the possibility of further development of precarious settlements. However, with each update, there has been a crescent loosening on regulation favoring the private sector, under allegations of a housing deficit and the need for provision of new units, in place of public action aimed at re-urbanization and at regulating land use, which meant a shift from the original intentions of the deed and the purposes of the city's housing policies.

KEYWORDS

Social Interest Housing (HIS) legislation. Social Interest Housing. Land use. Housing typology.

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OS DECRETOS DE HABITAÇÃO DE
INTERESSE SOCIAL E A
FLEXIBILIZAÇÃO DE PARÂMETROS DE
USO E OCUPAÇÃO DO SOLO NA
CIDADE DE SÃO PAULO NO PERÍODO
DE 1992 A 2016

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RESUMO

A criação de uma legislação para empreendimentos de Habitação de Interesse Social (HIS) em São Paulo surgiu da necessidade de promover uma base legislativa para a política habitacional do município, a partir de 1992. São três os principais decretos do período entre 1992 e 2016: o decreto 31.601/1992, o 44.667/2004 e o 56.759/2016, que aconteceram em paralelo às discussões dos Planos Diretores Municipais, sendo os dois últimos sob a influência do Estatuto das Cidades. As duas primeiras versões mostraram significativos avanços no tocante à morfologia dos agrupamentos habitacionais, apostando na supressão dos conjuntos com grande extensão territorial em favor de habitação nas áreas centrais e na possibilidade de reurbanização dos assentamentos precários. No entanto, a cada atualização, lograram uma maior flexibilização em favor do setor privado, sob o discurso do *déficit* habitacional e da necessidade de provisão de unidades novas, em detrimento às ações voltadas à reurbanização e à regularização fundiária, o que modificou a intenção inicial do instrumento e os desígnios das políticas habitacionais do município.

PALAVRAS-CHAVE

Legislação de HIS. Habitação de Interesse Social. Uso e ocupação do solo. Tipologia habitacional.

INTRODUCTION

The housing and urban precariousness the world has been experiencing for the past few decades, in the scale observed by Mark Davis (2006), who argues that over-urbanization “is driven by the reproduction of poverty, not by the supply of jobs”, has in its roots neoliberalism, the internationalization of economies and financialization¹, a recent process of capitalism which began in the 1970s.

For recently-urbanized countries in the outskirts of capitalism, like Brazil, territorial expansion happened in such context, based on scarcity and supported by an authoritarian regime, which fed on the absence of public policies and which led to the growth of precarious urban outskirts. According to J.S.W. Ferreira, “in that scenario, the ‘best’ housing policy was a ‘non-policy’” (2010:5), forcing the population to face the only possible alternative: illegality.

During the growth of urban outskirts, it was approved federal law no. 6.766/1979, also known as the Lehmann Act, on land subdivision (updated by laws no. 9.785/1999 and no. 11.997/2009²). Federal law no. 6.766/1979 was aimed at regulating non-compliance and played a crucial role on defining the country’s urban landscape, by determining the width of roads, their percentage of use, proper sites for each classification of use, minimal percentages for public areas, and the demand that developers deliver the land with functioning infrastructure. Nevertheless, it was common practice that allotments just under minimum requirements of the law (width of roads, lot sizes) were delivered without provision for institutional areas, green spaces or functioning infrastructure. Such conditions deemed the allotment irregular but once the five-year period of prescription was gone, the urban infrastructure became an onus to the city administration.

The purchase of irregular allotments and the occupation of environmentally unprotected areas or of the few areas reserved for institutional and leisure, used for building precarious housing was, and still is, the solution found by socially vulnerable populations.

During the 1980s, in a situation of housing precariousness, and along with the redemocratization process in the country, social actors and other political fronts have led the movement for Urban Reformation in the Constituent Assembly in 1988 and conducted experiments in favor of the right to the city and to habitation which wound up becoming the Statute of the City³ (EC).

Some aspects of the evolution of specific legislation passed, in the city of São Paulo between 1992 and 2016 in the context of the country’s democratization, on Social Interest Housing, especially on housing provision, will be analyzed. Such decrees deal with structural revisions, during the Workers’ Party administrations, whenever accompanied by proposals of altering Municipal Master Plans. By analyzing such legislation, it can be observed how the agents responsible for creating housing for low-income families, especially for housing provision, have benefitted from such devices.

The first part of this paper describes how the need for specific decrees came to be, and draws from the experience during Mayor Luiza Erundina

administration. Afterwards it focuses on the first major revision, based on the Statute of the City, and finally it discusses, under the influence of federal resources from the *Minha Casa Minha Vida* Program, the appointments of the law, under pressure from the real-estate market in the productive sector.

I. DEVELOPMENT

1.1. What is the need for an HIS Decree?

According to Villaça, it is up to society to choose between deregulation, which can lead growing chaos, and legislation, which sets legal apart from illegal (VILLAÇA, 2012).

It was under an illegal status⁴ that social interest housing blocks were developed by the municipal - *Companhia Metropolitana de Habitação de São Paulo* (COHAB) - and state - *Companhia de Desenvolvimento Habitacional e Urbano do Estado de São Paulo* (CDHU) - administrations from the 1970s to the 1990s. Likewise, irregular allotments in the city of São Paulo also sprung up. Under such circumstances, every housing development in the city of São Paulo had to be approved by its own specific decree from the City Council, according to law no. 9.413/1981. The situation had to be changed after some proposals to hasten government goals were made by then-mayor Luiza Erundina. According to engineer Ricardo Moretti:

[...] Prior to the specific legislation, all social housing cases had to be individually approved and those approvals took place at the City Council and each received its own specific decree. When the Luiza Erundina administration took office, a special commission was formed⁵ at SEHAB⁶ to analyze these projects before submitting them to the Council, and this ended up being the commission responsible for drafting HIS Decree no. 31.601/1992. It happened when the Housing Secretary was architect Ermínia Maricatto. The commission identified the need to pass specific legislation on low-income housing.⁷

Along with the discussions taking place in neighboring cities, such as Diadema and Santo André, the civil society in São Paulo began to find common ground with the actors involved in the matter. This led to a gathering of public administration sectors, housing movements, the São Paulo State Housing Syndicate (SECOVI), the Brazilian Architects Institute (IAB), and the São Paulo State Allotment and Development Syndicate (AELO) to debate the agenda for an HIS decree aimed at shedding light on the possibilities for a public housing policy.

For example, businesspeople wanted a social interest allotment law, to be called LIS (Social Interest Allotment), apart from the decree. They just wanted to work on the allotment and didn't care about the rest. These were the people led by AELO. [...] The most complicated things in the decree were not the technical aspects; but the issue of classification. So, what kinds of development qualify? Only those from

*the public sector? Do the ones from private companies qualify? And if they do, up to what income group? Which income brackets? How do you state income?*⁸

The discussion involving players with different agendas, marked by a strong presence of real-estate and allotment representatives, was a snapshot of the political and social game of the time. The definition of housing typology encompassed what was under public or private responsibility for low-income housing.

Morphological aspects of housing clusters and land use were not controversial issues when the first decree was approved. Public authorities were interested in creating smaller developments, like villas, for example (Figure 1)⁹. The decree permitted this sort of subdivision by means of an Integrated Plan, with no individual parking spots and interior lots under 250.00m², which would have been impossible under previous legislation.

The first decree intended to promote an occupation of the city based on smaller developments¹⁰, in place of large-scale residential developments, which meant higher responsibilities for public authorities, due to the large extent of infrastructure implementation (MORETTI, 1997) and low urban diversity. It is noteworthy that further updates to this decree did not mobilize members of the civil society for open debates as had happened the first time. Newer versions of the text were drafted by São Paulo City Hall's own staff and approved at the City Council.



Figure 1: Vista Linda housing block - Jaraguá.
Source: *Balanço da gestão* COHAB-SP-2001-2004, p.36.



Figure 2: Olarias street large-scale residential development.
Source: *Relatório COHAB*, 2004, p.23

1.2. Changes to the decrees

In order to notice the differences in the three main versions of the HIS decrees, one must understand the local housing policies in force at each update. In the first version, during the Luiza Erundina administration (1989-1993), the focus was on creating houses in peripheral areas, most of which were collectively-built while others were built by contractors. It is also noteworthy the fact that the office proposed a revision of the Municipal Master Plan and discussed, for the first time, the concept of “*solo criado*” (award with costs of the right to build). The plan was not approved by the City Council.

In its second version, in 2004, during the Marta Suplicy administration (2001-2005), the focus of housing policy was on the occupation of central areas (Figure 2) and urban voids served by infrastructure, and was already influenced by guidance from the Statute of the City (EC), the 2002 Strategic Master Plan (PDE), and the 2004 Regionalization Master Plans (PDRs).

In 2001, the legislative advancements brought about by the Statute of the City made it possible to put into action urban interventions in São Paulo central areas which would have been legally impossible before, as well as land regularization and slums re-urbanization. Once the Suplicy administration had determined its housing policy, it was clear that the HIS Decree no. 30.601/1992 and its amendments¹¹ would not suffice to enact it. Previous rulings focused on lots, single-family dwellings, duplexes, or apartment buildings up to five stories¹². To enforce the new policy, which included ZEIS (Special Zones of Social Interest) and the creation of a new category: low-income market housing (HMP)¹³, the legal text had to be altered.

Under such circumstances the decree underwent its second major revision: decree no. 44.667/200¹⁴, which completely suppressed previous decrees.

The most recent revision dates from the Fernando Haddad administration and is simultaneous to the debates and the approval of the 2014 Strategic Master Plan (PDE). The changes encompassed the proposals from the PDE and encouraged the participation of the private sector in creating new housing. The incentive was to loosen classification, to create ZEIS 5 areas and the fostering of HIS and HMP in the Axes of Urban Transformation along the structural network of public transportation.

The increased participation of private companies in the housing sector and the slow transfer of developments from state-run companies to private entrepreneurs were reinforced by the influence of the *Minha Casa Minha Vida* Program.

The full revision of the 2004 decree only came into force with decree no. 56.759/2016. However, between such revisions, an intermediate decree, no. 54.074 from July 5, 2013¹⁵, had been approved. Such decree dealt with the incentive to private housing provision, according to its §3:

Regarding EHIS, the use of floor area ratio above basic floor area ratio up to the maximum legal floor area ratio in the zone in which it stands will observe: I- it shall be free of charge; II- it shall not depend on the availability of potential stock for additional building; III- it shall not be deducted from such stock.
(Regulatory Standard)

Up until that point, the use of the maximum floor area ratio exempted from onerous grant was only allowed to EHIS in ZEIS areas. There was another adaptation to the text in 2016 (Decree no. 57.337/2016) when the Land Use Act no. 16.402/2016 was passed.

1.3. Classification

Classification defines who will benefit from the legal devices, be it the beneficiary or the entrepreneur, and what kind of developments qualify for such benefits. The crucial aspects of the classification are the beneficiaries' income bracket, the size of each dwelling unit (UH), the maximum number of units and the lot size. The last two influence both the urban morphology and landscape.

Regarding the first parameter, the size of each dwelling unit, tables 1 and 2 show that, of the 72.00m² of total floor area destined to HIS by the first decree, two possibilities sprung up in 2004: 50.00m² of usable floor area destined for HIS and 70.00m² for low-income market housing (HMP). The distinction between HIS and HMP allowed, at that moment, to determine what would be public provision¹⁶ (HIS) and what would be responsibility of the private sector (HMP) since, according to decree no. 31.601/1992, the size of the unit added to the final beneficiary profile, with household income of up to 12 minimum wages, allowed the civil construction sector to benefit from the law, creating developments for a more flexible user profile. Under that law, the private sector executed a large number of projects with federal financing from the Residential Leasing Program (PAR).

The parameter unit size has evolved in its third version (56.759/2016) to a new threshold, subdividing HIS into HIS 1 and HIS 2. The novelty was that both HMP and HIS 1 and 2 can create units up to 70.00m². The distinctions between each of them are the number of bathrooms and the income bracket of target families. This makes the product more flexible, catering for both public and private constructions, and is a return, in a way, to the original proposal, except for the beneficiary classification.

The relationship between lot size, floor area ratio and the allowed number of dwelling units indicates which types of developments were possible, as well as their densities. In relation to maximum lot area, according to decree no. 31.601/1992, the maximum area was 20,000.00m² which allowed some vacant units. In 2004 the area was altered to 15,000.00m² with 300 UH maximum, leading to smaller developments with a greater number of dwellers, since the size of HIS units was established at 50,00m² maximum. Such statute was substituted in 2016 by the possibility of an HIS development being approved as an Integrated Plan with raw land lots of up to 100,000.00m² and up to 1500 UH, thus allowing the reproduction of immense blocks, severely criticized by specialized literature.

As a possibility for public policy, the money invested in smaller developments means the division will be more equitable and aimed at different targets. This helps promote urban variety and allows for the use of different typologies, given

Table 1: Analysis of HIS classification.
Source: By the author.

	Decree no. 31.601/92	Decree no. 44.667/04	Decree no. 45.127/04	Decree no. 56.759/16
UH value	Does not apply ¹⁷	R\$ 35,000.00 (2004)		HIS 1- value unspecified HIS 2- value unspecified
Target (Household monthly income)	For families making up to 12 minimum wages	For families making up to 6 minimum wages		HIS 1 - Up to R\$ 2,172.00 HIS 2 - From R\$ 2,172.00 to R\$ 4,344.00
UH maximum size	72.00m ² total floor area	50.00m ² total floor area		HIS 1 and 2 - Up to 70.00m ² usable floor area
UH minimum size	42.00m ² , permission for 24.00m ² embryo-house with mandatory improvement	32.00m ² usable floor area and a diameter of 3.40m. Or, permission for 24.00m ² embryo-house with mandatory improvement		24.00m ² minimum usable floor area
Internal building blocks	Maximum of 1 bathroom/UH.	Same		Same
Maximum lot size	20,000.00m ²	15,000.00m ²		20,000.00m ² 100,000.00m ² Integrated Plan
Maximum number of units	Not established, determined by LPUOS ¹⁸	200 UH	300 UH	300 UH 500 UH to EHIS from PMCMV-E 1500 UH Integrated Plan
Parking spots	1 mandatory spot for every 3 UH	Maximum of 1 spot per UH		Maximum of 1 spot per UH

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Table 2: Analysis of HMP classification.
Source: By the author.

	Decree no. 31.601/92	Decree no. 44.667/04	Decree no. 45.127/04	Decree no. 56.759/16
UH value	Does not apply	Sold according to family classification		Sold according to family classification
Target (Household monthly income)		For families making up to 16 minimum wages		From R\$ 4,344.00 to R\$ 7,240.00
UH maximum size		70.00m ² usable floor area		70.00m ² usable floor area
Internal building blocks		Maximum of 2 bathrooms/UH		Maximum of 2 bathrooms/UH
Maximum lot size		Does not apply		Same as HIS
Maximum number of units		Does not apply	Does not apply	Same as HIS
Parking spots		Maximum of 1 spot per UH		Maximum of 1 spot per UH

that the conditions in smaller lots force projects to be optimized to the terrain and its surroundings, fostering greater respect to local resources and potentialities. That is not the case with large allotments, where generic, one-size-fits-all typologies can be used.

1.4. Use of land in ZEIS

The diversification of uses in HIS developments only happened after the second decree, with the establishment of ZEIS areas. The possibility of developments catering for different income brackets and for mixed-use intended to promote social mingling, buildings with varied compositions and to allow a financial balance for operating different units. Table 3 shows minimum and maximum shares established for different uses (HIS, HMP, and others) in each kind of ZEIS area¹⁹.

Table 3: Analysis of decrees regarding uses.
Source: By the author.

	Decree no. 31.601/92	Decree no. 44.667/04		Decree no. 56.759/16		
	HIS	HIS	HMP/ Others	HIS 1	HIS 2	HMP/ Others
ZEIS 1	Does not apply	70% Min	30% Max	60% Min	Permitted	20% Max
ZEIS 2		50% Min	50% Max			
ZEIS 3		70% Min	30% Max			
ZEIS 4		Does not apply		40% Min	Permitted / 40% Max	
ZEIS 5						

Figure 3: Jardim Edith
Large-scale residential development - Consortium Urban Operations *Águas Espraiadas*.
Source: <http://www.mmb.com.br/projects/details/74/1>. Access on June 25th, 2017.



An example of the advantages in promoting diversity in use on a single site brought about by the second version of the decree can be seen at Jardim Edith large-scale residential development (Figure 3) where there are dwelling units sporting three different typologies and institutionally used areas (day care, Basic Health Units and restaurant school).

When it comes to private market access, it is noteworthy that the last decree fosters the participation of higher-income brackets: the establishment of ZEIS 5 areas (Table 3) by the 2014 PDE. ZEIS 5 resulted from pressure of the real-estate sector, during the revision of the 2014 PDE, to create units targeted at families making above 6 minimum wages, according to target income-bracket classification numbers 2 and 3 from the *Minha Casa Minha Vida* Program.

In relation to the benefits provided by the decrees, they are greater in ZEIS lots in comparison to those in other zoning areas. For example, decree no. 45.127/2004, which came after the second major revision, allowed the exemption of institutional areas and green spaces donation in ZEIS 5 areas. Such prerogative allowed for a greater number of units per lots, leading to greater economic viability. This fact garnered attention from the real-estate sector, especially in ZEIS 3, located in central areas.

The project (Figure 4) led by a partnership of builders Gafisa and Bueno Netto, in Consortium Urban Operation *Água Branca* (OUCAB) area, approved by standing law in December, 2014²⁰, is the result of possibilities that ZEIS 3 allowed. It promotes a model focused on increased density and verticalization, which is the morphology fostered by Consortium Urban Operations (OUC). It

Figure 4: HIS and HMP in ZEIS 3 Barra Funda – “BARRA VIVA” development 5 towers and 953 UH. Source: flyer.



was approved as an Integrated Plan and subdivided into 4 lots with 5 towers. It had 1-bedroom, 31.00m² apartments sold over R\$ 190,000.00 and financed by the *Minha Casa Minha Vida* Program. Such development is a hybrid one and the offspring of a loophole. It was released with 100% of HIS units, classified as such by the São Paulo City Hall (PMSP) and sold in the real-estate market as a Group 3²¹ unit, still classified as HIS under decree number 44.667/04 (Tables 1 and 2).

Table 4 shows, in the last two decree updates, a tendency to increased density in ZEIS areas. Such difference becomes evident when comparing changes in the maximum floor area ratio (CA) from 2.5 to 4 in ZEIS²². As a thought experiment, if we consider a hypothetical 5,000m² lot in a ZEIS 2 area, this means an increased floor area of 7,500m². Bear in mind that in this case the Occupancy Rate (TO) was loosened from 0.50 to 0.80.

Table 4: Urban indices (44.667/2004 and 56.759/2016). Source: By the author.

Occupancy parameters for ZEIS. Law no. 13.885/04 and decree no. 44.667/2004									
ZEIS	Floor Area Ratio			Height	TO Max	TP ²³ Max	Front lot line	Minimum setbacks	
	Min	Bas	Max					Front	Side Back
Zeis 1	0.20	1	2.5	Unlimited	0.50	0.15	5	Not required	Not required
Zeis 2			2.5		0.50				
Zeis 3			4		0.70				
Zeis 4			1		0.50				
Occupancy parameters for ZEIS. Decree no. 56.759/2016									
Zeis 1	0.5	1	2.5	Unlimited	0.80	0.15	10	5	3
Zeis 2			4						
Zeis 3			4						
Zeis 4	0.5	1	2			0.2			
Zeis 5			4						

Table 5: Simulation data.
Source: By the author.

Lot data		Housing type	Usable floor area	Circulation area (+15%)	No. of people per UH
Dimensions	50m width x 100m depth	HIS	50	57.5	4
Area (m ²)	5,000 m ²	HMP	70	80.5	5
Area (ha)	0.5 ha	HIS 1	30	34.5	2
Topography	Flat	HIS 2	50	57.5	4

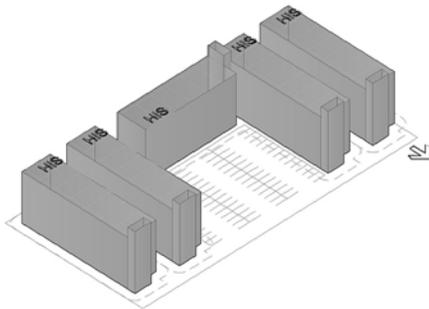


Figure 5: Z2 zoning area. TO 0.5 / CA 3. UH total: 217 with 50.00m². 5 stories. 1 parking spot for every 3 UH.
Source: Decree no. 31.601/1992

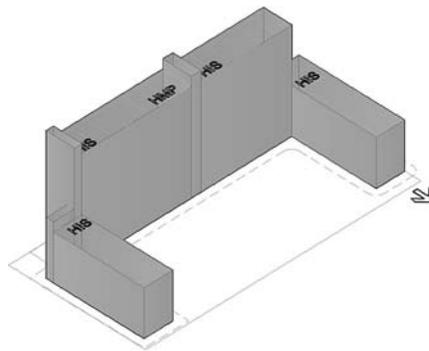


Figure 6: ZEIS 2 zoning area. TO 0,5 / CA 2,5. UH total: 198, being 152 HIS and 46 HMP.
Source: Decree no. 44.667/2004.

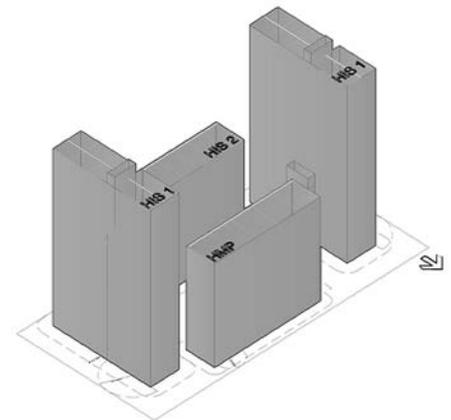


Figure 7: ZEIS 2 zoning area. TO 0,8 / CA 4. UH total: 465, being 347 HIS 1, 69 HIS 2, 49 HMP.
Source: Decree no. 56.759/2016.

1.5. Land use in different zoning areas

When faced with housing developments in different zoning areas²⁴, the first two decrees used standards associated with typology (single-family, horizontally-integrated multi-family up to 20 UH, horizontally-integrated multi-family over 20 UH, vertically-integrated multi-family up to 5 stories and vertically-integrated multi-family over 5 stories) to define urban indices. These indicators would determine density, that is, different urban indices for each zoning area based on typology.

According to decree no. 56.759/2016²⁵, urban standards would be defined by the macro-zones and macro-areas in the city, regardless of housing typology. Chart 01 from such decree shows the increased Floor Area Ratio (CA) in the Macro-Area of Urban Structuring and Transformation. For HIS developments (EHIS in other zoning areas) the CA can be of 6 and for low-income housing market developments (EHMP) it can be up to 5 times the lot area. These indices are more permissible than those allowed for ZEIS areas, *cf.* Table 4, where maximum density is 4. This is due to the proposal of increased density in HIS 1, HIS 2 and HMP in the Axes of Urban Transformation defined by the 2014 Strategic Master Plan (PDE). Such prerogative encourages the private sector to invest in housing developments in these areas, where bus corridors, subway lines and public transportation concentrate.

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2. CONCLUSION

The contribution of the HIS decrees, in their different stages, in the city of São Paulo led to a unique experience in the implementation of housing typologies, in which prevailed the legacy of the Luiza Erundina administration to create unique urban experiences and buildings in the outskirts of the city.

The second decree improved on the first one allowing a greater viability of housing developments, fostering vertical integration and shared the use of ZEIS areas. It also focused on social housing in central areas promoting small buildings in the urban grid.

Such resources allowed a varied range of housing typologies when compared to previous housing production which replicated 5-storey freestanding buildings, as was the case with CDHU and COHAB.

Despite the lack of direct social participation in the updates that followed the first decree, such versions were aligned with the debates on the Strategic Master Plans which, along with the Statute of the City, established the creation of local decision-making bodies such as the participative management councils, unlike the first stage.

It pays to note that the driving force behind the public interest in the debates on HIS and ZEIS decrees is to discuss housing provision, related to classification of developments, benefits to and classification of beneficiaries. The update in force makes clear the attention to the large developments with increased density in ZEIS 2 and in areas of growing presence of financial

capital, such as the Consortium Urban Operations areas and the Urban Transformation Axes. Says a developer: “*We have the Eixão (big axis), no one can complain.*” According to David Harvey (2014 apud ROLNIK, 2015, p.160), in the current stage of capitalism, land and built spaces are assets, which function as a reserve to halt the cumulative surplus from other sectors. Therefore, the city, its dynamics and needs are opportunities to create capital and the housing sector is of great interest to such a goal. In this sense, the updates in the decrees stood for a slow shift of focus from an inclusive public policy, in the first version, to allow space for the expansion of the real-estate and civil construction sectors.

From 1992 to 2016, the aspects that had a greater impact on housing improvement and re-urbanization of precarious areas, which are covered by the decrees, were not part of society’s agenda and remained in the parallel universe of the population’s direct struggle with executive power.

NOTES

- ¹To support such concepts, it will be used the review of literature on globalization and financialization proposed by Bonicenna (2017), citing authors such as Christophers and David Harvey.
- ²Regulates the *Minha Casa, Minha Vida* Program (PMCMV) and regularizes land in urban settlements.
- ³“Statute of the City” is the official name for law no. 10.257, from July 10, 2001, which rules over the “Urban Policy” chapter in the Brazilian Constitution, elaborating on and developing articles 182 and 183.
- ⁴Outside the rule of prevailing laws such as: federal law no. 6.766/1979 on land subdivision, municipal law no. 9.413/1981 on land subdivision, and the Forest Code, law no. 4.771/1965.
- ⁵The members of such commission were architects Eliane Guedes, director of Parsolo, Moyses from CDHU, Wladimir Bartalini from HAB and Ângelo Salvador Feliardo from COHAB, José Roval from PARSOLO, Maria do Carmo El Beck from PARSOLO and engineer Ricardo Moretti, a consultant for IPT (Technological Research Institute).
- ⁶Housing Department.
- ⁷Interview with engineer Ricardo Moretti in January, 2005.
- ⁸Interview with architects Eliane Guedes and Alejandra Devecchi in December, 2004.
- ⁹The Decree did not prevent vertically-integrated multi-family developments (Ground floor + 4 stories) in areas with good urban infrastructure, in former Z3, Z10, Z12 and Z19 zoning areas with a floor area ratio of 4 and in Z2, Z11 and Z13 with a floor area ratio of 3. The number of stories was determined by the difference in level between the parking lot and the flooring of the penthouse, up to 14.00m maximum without elevators.
- ¹⁰Although the idea was to encourage occupation of areas in the outskirts with smaller developments, density had never been classified as a topic. It was determined by the relation between the floor area ratio in the zoning area, the size of each dwelling unit (UH), ranging from 42m² to 72m², housing typology (single-family, vertically- or horizontally-integrated multi-family).
- ¹¹The Decree received 10 amendments during the Paulo Maluf (1993-1997) and Celso Pitta (1997-2001) administrations. These amendments dealt mainly with classification, allowing for a bigger participation of private companies alongside local officials.
- ¹²Once the compulsory parking lot decision, which determined, in its first version, one spot for every three dwelling units, was abolished, it was possible to create HIS in central areas. The use of elevators for low-income buildings was demystified, which led to the verticalization of buildings.

¹³ According to the PDE-SP (2014), Art. 44. Special Zones of Social Interest (ZEIS) are areas destined, primarily, to decent housing for low-income populations by means of urban development, environmental re-habilitation, land regularization of precarious or illegal settlements and the provision of new Social Interest Housing (HIS) and low-income market housing (HMP) in urban areas, to be supplied with social facilities, infrastructure, green spaces and local commerce and services.

¹⁴ There was an adaptation to the original text which changed the maximum number of dwelling units per development, from 200 to 300 UH (decree no. 45.127/2004).

¹⁵ Grants a new text to articles 28, 70 and 92 of decree no. 44.667, from April 26, 2004, which deals with specific standards for the creation of Social Interest Housing Developments (EHIS), Low-Income Market Housing Developments (EHMP), and establishes correlated standards.

¹⁶ Such status was altered by the *Minha Casa Minha Vida* Program in the developer modality since the civil construction sector, in tandem with local authorities, fulfills the demand from the municipality with their produced units.

¹⁷ In the first decree, the UH value was tied to public constructions by COHAB, IPREM (São Paulo Municipal Pension Plan) and IPESP (São Paulo Special Payments Institute), or by private agents with an agreement with or overseen by COHAB.

¹⁸ Land Use Act.

¹⁹ According to the 2014 PDE, Art. 45, there are 5 (five) kinds of ZEIS areas:

I- ZEIS 1 are areas characterized by slums, irregular settlements, HIS projects and low-income settlements, occupied mainly by low-income population, with public interest in retaining dwellers and promoting land and urban regularization, environmental re-habilitation and creating Social Interest Housing;

II- ZEIS 2 are areas characterized by vacant or underused land, suitable for urbanization, with public or private interest in creating Social Interest Housing Developments;

III- ZEIS 3 are areas with vacant or underused properties, irregular tenements or damaged buildings, located in central areas with good urban infrastructure, services and facilities, good job supply, with public or private interest in promoting Social Interest Housing Developments;

IV- ZEIS 4 are areas characterized by vacant land, suitable for urbanization and construction, located in the watershed protection areas of Guarapiranga and Billings dams, exclusively in the Macro-areas of Reduction of Vulnerabilities and Environmental Re-habilitation and of Urban and Environmental Control and Re-habilitation, dwellers of settlements located in such watershed protection areas, preferably due to resettling from urban planning or from expropriation in high-risk areas and permanent preservation areas, observing state legislation;

V- ZEIS 5 are properties or group of properties, especially vacant or underused, located in areas where there are services, facilities and infrastructure, with private interest in creating low-income market housing developments.

²⁰ Approved under permit no. 2014/27677-00, from December 8, 2014 (cf: <http://www.buenonetto.com.br/imovel-detalhe/barra-viva#2>). Such approval follows the 2014 PDE, the OUCAB Act and decree no. 44.667/04 and its updates.

²¹ *Minha Casa Minha Vida* Group 3 was targeted, at launch, at families making up to R\$ 6,500.

²² It's important to notice that there was a significant increase in ZEIS 2 areas from the 2002 PDE to the 2014 PDE: from 7.3km² to 13.8km². Retrieved: <http://www.prefeitura.sp.gov.br/cidade/secretarias/upload/licenciamentos/zeisplanodiretor.pdf>

²³ TP - Percolation Rate.

²⁴ cf. Chart II of Decree no. 31.601, May 1992 and Chart 1 of HIS Decree no. 44.667, April 2004.

²⁵ cf. Chart I of Decree no. 56.759, January 7th, 2016.

REFERENCES

- BONICENHA, R. C. *Financeirização e território: uma revisão da literatura recente*. XVII Enanpur. São Paulo: 2017.
- BRASIL. Federal Law no. 6766, december 19th of 1979. *Diário Oficial da União*, Brasília, dec. 19th 1979.
- BRASIL. Federal Law no.10.257, july 10th of 2001. *Diário Oficial da União*, Brasília, jul. 11st 2001.
- BRASIL. Federal Law no. 11.977, july 7th of 2009. *Diário Oficial da União*, Brasília, jul. 8th 2009.
- COMPANHIA METROPOLITANA DE HABITAÇÃO DE SÃO PAULO. *Balanco qualitativo de gestão 2001/2004*. São Paulo: COHAB, 2004.
- DAVIS, M. *Planeta Favela*. São Paulo: Boitempo, 2006, p.272.
- FERREIRA, J. S.W. *Cidades para poucos ou para todos? Impasses da democratização das cidades no /brasil e os riscos de um "urbanismo às avessas"*. In: Hegemonia às avessas. (Org.) Oliveira, F.; Braga, R. e Rizek, C. Boitempo Editorial, 2010. p.185 2010.
- HARVEY, David. *Seventeen Contradictions and the End of Capitalism*. Oxford University Press, 2014. apud ROLNIK, R. *A guerra dos lugares*. São Paulo: Boitempo, 2015.
- MORETTI, R. S. *Normas urbanísticas para Habitação de Interesse Social - recomendações para elaboração*. São Paulo: IPT FINEP, 1997. p. 157.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Law no. 9.413, december 30th of 1981. *Diário Oficial do Município*, São Paulo, dec. 30th 1981.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Decree no. 31.601, may 26th of 1992. *Diário Oficial do Município*, São Paulo, may 27th 1992.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Decree no. 44.667, april 26th of 2004. *Diário Oficial do Município*, São Paulo, april 27th 2004.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Decree no. 45.127, august 13th of 2004. *Diário Oficial do Município*, São Paulo, aug. 14th 2004.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Decree no. 54.074, july 5th of 2013. *Diário Oficial do Município*, São Paulo, july 6th 2013.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Decree no. 56.759, january 7th of 2016. *Diário Oficial do Município*, São Paulo, jan. 8th 2016.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Decree no. 57.337, september 23rd de setembro de 2016. *Diário Oficial do Município*, São Paulo, sep. 24th 2016.
- PREFEITURA MUNICIPAL DE SÃO PAULO. Law no. 16.402, march 22nd of 2016. *Diário Oficial do Município*, São Paulo, mar. 23rd 2016.
- VILLAÇA, F. *Reflexões sobre as cidades brasileiras*. São Paulo: Nobel. 2012.

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Catharina Christina Teixeira

Instituto de Arquitetura e Urbanismo. Universidade de São Paulo. São Carlos, SP.
catharinateixeira@usp.br