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Can public–private partnerships help achieve the right to the city in Brazil? The case of Casa Paulista program in São Paulo

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ABSTRACT

This paper evaluates the compatibility of public–private partnerships (PPP) for housing in Brazil with the notion of the right to the city, enshrined in the Constitution. A 3-year investigation of the country's first housing PPP, Casa Paulista, located in downtown São Paulo city, informs the analysis. Drawing from the international debate on the right to the city and its application in Brazil, I offer a definition of the term that transcends the notion of rights-based policy, and implies urban dwellers' appropriation of urban production and city space. While failing to scale up centrally located housing delivery, the PPP facilitates a new housing regime marked by the decreased ability of citizens, particularly grassroots movements, to appropriate housing production, directly contradicting the right to the city ideal. Finally, I describe an outcome from this new regime—an ad hoc and opaque system of public land allocation for PPP housing developments.

Can housing PPPs fulfill the right to the city ideal in Brazil?

Improving access to adequate housing is a national priority in Brazil, consistent with Article 6 of the Federal Constitution of 1988, which includes housing in a bundle of basic human rights. Housing needs are significant in the country. Based on sample household data from the Brazilian Institute of Geography and Statistics, the Fundação João Pinheiro (2018) estimated the national housing deficit in 2015 be equivalent to 6.4 million households, or 9.3% of the country's total.¹ Housing deficit is a complex concept, interpreted as the combination of households that need replacement or improvement, have excessive crowding, or excessive rent burden. Rent burden is a more recent trend and represents the number of urban households whose income is equivalent to up to three monthly minimum wages (MMW) and spending more than 30% of such income on rent.² Also, according to Fundação João Pinheiro (2018), currently, excessive rent burden counts for half the housing deficit in large metropolitan areas, and 58% in the São Paulo Metropolitan Region, where the Casa Paulista PPP is located.

There is a long tradition of housing policy in Brazil; while funding volume has changed significantly based on national political and economic priorities, substantial investments have often been directed to prioritize expansion of private financing and construction on the supply side, and homeownership on the demand side (Royer, 2009; Shimbo, 2010). In contrast, popular demand has focused on decentralization of funding and development, and greater social participation (Bonduki, 2008).

In the city of São Paulo, housing needs are prevalent in peripheral areas and pertain to improvement of housing quality and regularization of tenure.³ The main housing issue in the central city, however, is excessive rental burden.⁴ Organized movements struggle for the right to live in the city center, in proximity to job opportunities, health and education facilities, and mobility (Silva & Sigolo, 2007). Starting in the late 1990s, these movements relied on the occupation of vacant public property in the city

center to force the state to offer adequate housing solutions, with 44 occupations between 1997 and 2005 (José, 2010). In response, government authorities have invested on the retrofit of vacant structures into housing projects, albeit on a small scale.⁵

The city of São Paulo incentivizes development of low-income housing within special districts qualified as zones of special social interest (ZEIS), according to the city's strategic master plan of 2002, Municipal Law 13,430/2002, altered by Municipal Law 16.050/2014. These developments shall be mediated by participatory practices. According to the 2014 strategic master plan, new developments within central ZEIS districts, or ZEIS 3, must be entirely for subsidized and market-affordable housing, with 80% of housing directed to families earning up to 6 MMW, and 20% to 6 and 10 MMW.⁶

First in the country, the goal of Casa Paulista PPP (Casa Paulista) was to facilitate housing provision in São Paulo's inner city through private sector-led development of mixed-use and mixed-income projects, to be erected on land that is vacant or underused, including in ZEIS 3 districts. Sponsors presented Casa Paulista as a program aligned with the goals of Brazil's urban reform agenda and the right to the city, in particular, for aiming at a more democratic city through development of affordable housing near urban infrastructure, services, and employment opportunities. Instead, in this paper, I revisit the debate on right to the city and its application in Brazil, where the principle is enshrined in the Federal Constitution and Federal Law 10,257/2001, the City Statute (Statute). Such a review informs analysis of the Casa Paulista PPP model.

Discussion on right to the city is based on review of the international literature about its different meanings, and on empirical studies of its evolution in Brazil. In-depth analysis of Casa Paulista draws from primary data from 43 interviews with public and private agents involved in the PPP's modeling, including 12 government representatives (four state and eight municipal), 21 private developers, and 10 community members (two residents and eight representatives of local organizations). Interviews loosely followed a set of open-ended questions, which varied between private agents, community representatives and public sector agents in the municipal and state governments. All interviews were conducted in person, except for one by phone, and lasted from 40 to 90 min. Participant observation of four public and five private meetings, between July 2013 and December 2015 complemented the primary data set. Content analysis of terms of reference, private proposals, and public and private reports supported the investigation.

Based on the analysis, I argue that Casa Paulista's main goals of scaling up housing provision and building a more democratic city are not achieved. Casa Paulista has not addressed main issues, such as the rising cost of centrally located land, even if idle, and private developers' resistance to invest their own capital in low-income housing projects. Despite these limited results, through Casa Paulista, the São Paulo state government, represented by its housing department, and their private-sector partner, Canopus Holding, have managed to diminish the ability of local residents and organized housing groups to participate in development decisions, and to promote an abstract model that prioritizes finance and private-led provision over housing practices and needs on the ground. In fact, São Paulo state authority was strategic when framing the rules of the ZEIS 3 districts where the PPP originally unfolded, emphasizing land use requirements for high-density development while de-emphasizing participatory planning requisites. Lastly, I describe how the new housing regime is affecting land assembly for low-income housing developments. Under Casa Paulista, this process has become ad-hoc and opaque, occurring outside of public control, contradicting the right to the city ideal.

The remainder of this article is organized into three sections. In the first, I qualify the meaning of PPPs and right to the city, as adopted in Brazil, through historical analysis. In the second, I present the case study and discuss why and how a PPP such as Casa Paulista and the notion of right to the city are incompatible. The last section presents the study's conclusion. The relevance and significance of the study's findings and conclusions goes beyond Casa Paulista, since this PPP is a reference for similar programs in the country and even internationally.

Understanding PPPs in Brazil

Generally, PPPs aim at leveraging private capital by decreasing risk to private investors. While the normative literature focuses on risk management and mitigation (e.g., Farquharson, de Mästle, & Yescombe, 2011), critical studies frame PPP as a mechanism of marketization, or the growing reliance of states on the private sector to design, finance, implement, and maintain systems of public infrastructure and services (Birch & Siemiatycki, 2016). Empirical analysis describe how PPPs enable the enactment, at the local level, of policies of marketization, with outcomes that include putting product delivery before policy process, limiting community control over quasi-public systems (Raco, 2014), and prioritizing business interests over public welfare (Weber, 2010). In Brazil, such phenomena are associated with the rise of a new urban paradigm, the city as a business (Carlos, Volochko, & Alvarez, 2015), whereby development strategies no longer approach cities as sites of production but rather as elements of it.

The first property-led PPPs implemented in Brazil, since the early 1990s, consisted of Urban Operations (OUs). Regulated at the municipal level, OUs are based on the non-gratuitous grant of the right to build above building restrictions (*outorga onerosa*), through which the public sector seeks to leverage private capital for investment in public infrastructure and services in strategic city perimeters, which are marked as OU districts. Premised on the separation between the right to property and the right to build (Friendly, 2013), *outorga onerosa* allows local authorities to require financial compensation in exchange for development beyond zoning rules. In São Paulo, this occurs through the sale of certificates for the extra right to build (CEPACs), specially issued for each particular OU, according to municipal law. Looking at the early experiences of the 1990s, Fix (2004) argued that by incentivizing profit-generating development and public investment within limited city perimeters, OUs concentrated, rather than redistributed, fiscal resources. Recently, Santoro and Lima (2016) described how the inclusion of low-income housing as priority investment in the OU Agua Branca depended on the ability of local communities and advocacy groups to negotiate and set parameters at the OU committee level.

In contrast to OUs, which consist of land use tools regulated at the municipal level, PPPs such as Casa Paulista derive from Brazil's contracting law, the so-called PPP law, which supports expansion of the national infrastructure market through two types of infrastructure concession agreements: sponsored and administered (Federal Law 11,079 of 2004 modified by Federal Law 12,766 of 2012). In fact, the passing of Federal Legislation restricted the meaning of PPPs in Brazil to infrastructure concessions (Pereira, 2015). In São Paulo, State Law 11.688/2004 follows the federal legislation and covers PPPs in the state. Similarly to OUs, concession-type PPPs are established on a case-by-case basis. However, negotiations over development decision involve, primarily, the conceding power and a private partner.

Right to the city in Brazil: Between struggle and state support to market-led policy

A challenge to urban research and practice is the lack of consensus on the meaning of right to the city. French philosopher Henry Lefebvre associated the term with the appropriation by city dwellers of processes of urban production and the city space (Lefebvre, 1991; Purcell, 2014). Lefebvre's writings drew from urban transformation in central Paris during France's industrialization in the mid-19th century. This was a process marked by the temporary appropriation of urban production in the central city by low-wage industrial workers working on new industrial sites. Subsequently, the state and the rising bourgeois promoted the modernization of central Paris, removing the working class to peripheral areas and reclaiming the inner city territory, modernized and with greater exchange value (Lefebvre, 1991, 1996). Based on Lefebvre's writings, scholars interpret right to the city as urban production that reflects use values acquired from lived experience in a place, and stands in opposition to transformation seeking to maximize exchange value (Marcuse, 2010). Emphasizing the notion of struggle in Lefebvre's analysis, Purcell (2002, p. 102) approaches right to the city as "a

new form of urban politics that re-orient decision-making away from the state and toward the production of urban space ... particularly through the right to participation and to appropriation.”

Starting in the late 1990s, with support from international organizations and the United Nations, government authorities sought to create a legal basis to the right to the city ideal (Mayer, 2009) through “urban policies that promote justice, sustainability and inclusion in cities” (Purcell, 2014, p. 141). This trend was influential in Brazil, where the right to the city was indeed enshrined in the Constitution and interpreted as a bundle of rights, such as access to adequate housing and mobility. Critics argued that such formalization of the right to the city was likely to promote a fragmented understanding of the ideal, emphasizing accessibility over process, and skipping the debate concerning structural drivers of urban inequality and unevenness, intrinsic to Lefebvre’s analysis (Mayer, 2009). Through a more nuanced analysis, Earle (2017) argues that this approach in Brazil has expanded citizen’s rights by enabling grassroots housing organizations to exercise “politics of rights.” Relying on text law prioritizing property’s social function, these organizations force their way into vacant land and buildings in downtown areas of cities such as São Paulo, demanding state assistance as Silva and Sigolo (2007) also described. Earle also consents that these tactics have been “more useful to avoid or block the violation of rights than to promote affirmative action and urban conflict resolution” (Rolnik, 2013a, p. 62), as critics predicted.

While enabled through legal reform, adoption of the right to the city in Brazil also reflects the struggle of social urban movements to challenge a segregated model of development that marked the country’s urbanization and industrialization in the mid-to-late twentieth century. A developmentalist state that prioritized economic expansion over redistributive policy while implementing an import-substitution industrialization (ISI) model in Brazil facilitated what Caldeira and Holston (2016) describe as “modernization without substantive citizenship.” A military dictatorship installed in 1964 replaced social demands arising with modernization, and collapsed in 1985 through a debt crisis that also dissolved ISI (Saad-Filho, 2012). Negotiated transition back to democracy enabled political elites to remain in government and adopt economic austerity measures (e.g., a neoliberal structural adjustment reform) to address the debt crisis of ISI. While social investments were restricted, popular demand for deep legal and political changes rose. Included by popular demand in the Constitution of 1988, Articles 182 and 183, the urban chapter, affirmed the social function of property and the city, or the principle that private profit is conditioned to public interest, as defined by municipalities (Fernandes, 2007a).

The City Statute provides the regulatory framework for the Federal Constitution’s urban chapter, setting a menu of urban and legal instruments to be adopted at the local level, through local master plans. These plans shall be based on the principle that property must fulfill a social function, through direct citizen participation.⁷ Specifically, the statute, according to its Article 2: associates the right to the city with a bundle of rights such as urban land, housing, infrastructure, mobility and social services (Subsection I); requires democratic city management through direct participation, individually or in associations, in the design, implementation and monitoring of development plans, programs and projects (Subsection II), and; requires cooperation between government, private sector and civil society to meet social interests (Subsection III).

Outcomes of the statute are deemed at best uncertain (Friendly, 2013), and even regressive (Freitas, 2017). Rodrigues (2004) argues the statute’s framework is fragile, first for making selective, rather than mandatory, the adoption at the local level of its policy menu, second for not distinguishing between those tools aimed at penalizing speculative practice and those incentivizing new property developments whereby property fulfills a (local notion of) social function, and third, for not offering rulings for participatory democracy to occur at the local level. Rolnik (2011) alludes to the national government’s conflicting goals of promoting the social function of property and cities on the one hand, and enabling private markets on the other, affecting outcomes of the statute.

Empirical analyses align with such critical views. Walker (2015) discusses how participatory institutions originally set up locally and later incorporated in the Statute have become vulnerable to partisan politics and market forces. Her analysis focuses on political transitions occurring within the Participatory Budget (OP), a mechanism originally designed and adopted in the city

of Porto Alegre, to enable local citizens to directly participate in development decisions through voting. Walker argues that Porto Alegre's OP has been gradually co-opted, enabling budget allocation to privately managed programs including PPPs, something she describes as "conflating policy goals." Freitas (2017) describes how the 2014 FIFA World Cup investment in light rail adjacent to recently regularized low-income communities in the city of Fortaleza, allegedly addressing the "right to mobility," in fact has threatened resident's long-term permanence and tenure security, a phenomenon she describes as "undoing the right to the city."

Finally, it is noteworthy that the Statute unfolded during an "inflection" of neoliberalism in Brazil (Morais & Saad-Filho, 2012). "Neodevelopmentalism" was installed in 2005, after the election, for the first time in Brazil's history, of a member of the Worker's Party (PT), Luiz Inácio Lula da Silva, to the presidency in 2003. It continued through the term of his successor, Dilma Rousseff, who the National Congress removed from power through impeachment on April 17, 2016. Undergirding neodevelopmentalism was the idea of combining economic growth with social equity (Sicsú, Paula, & Michel, 2007). In practice, the regime extended social provision to the low-income population (Morais & Saad-Filho, 2012) while also prioritizing the expansion of private markets through development policy, with important effects in the urban and housing sector. Removal of President Rousseff marked the end of neodevelopmentalism and a decrease in federal investment in development policy, including housing.

Housing provision and the adoption of PPPs

The creation of a National Housing Bank (BNH) in 1964 set up Brazil's first national housing system (SFH), through a combination of a new provident fund based on compulsory savings from waged workers and voluntary savings. In 22 years BNH produced about 4.3 million units: 2.4 million directed to the low-income market and 1.9 million to the middle-income market. This represented a quarter of housing production in the period. Low-wage workers and the unemployed built the bulk of low-income housing at peripheral areas, without state support toward housing finance, infrastructure provision, or tenure security. BNH was dismantled in 1986. Despite popular demand for decentralization, SFH was transferred to the Brazilian Public Bank for Savings and Real Estate Finance (Caixa). For the next two decades, funds from SFH were directed primarily to finance housing for the middle-income population (Bonduki, 2008).

Federal investments in housing grew significantly during PT's term in executive power, as represented by a six-fold increase in the total value of national housing contracts, through SFH, between 2003 and 2008 (Shimbo, 2010).⁸ Passing of the Social Housing Law (i.e., Law 11,124 of 2005), in line with the goals of the City Statute, set up a new structure and dedicated funding to decentralize provision of low-income housing. To access funds, municipalities and states were required to measure local housing deficits and design comprehensive plans. Then, in 2009, a massive housing program, My Home My Life (PMCMV), was launched as an anticyclical measure to contain the effects of the global financial crisis in Brazil, replacing the new social housing system before it became fully operational. Aligned with neodevelopmentalism ideals, PMCMV disbursed more than \$35.5 billion (2012 value) between 2009 and 2012 and delivered over 3 million housing units, prioritizing investments to the lowest-income populations through greater subsidies and security for mortgage buyers. PMCMV also prioritized interests of large corporations by concentrating investments on the private construction and finance industries (Shimbo, 2010).⁹

Originally, PMCMV did not reach the country's pricier, larger metropolitan areas, as rising land prices pushed housing costs beyond the program's original threshold (Balbim, Krause, Neto & Correia, 2015). In 2007, the São Paulo State Housing Company, set up in 1967, was producing some 20,000 units per year, commercialized through affordable mortgages. After adhering to the national social housing system in 2008, the São Paulo state government pioneered its newly created, state-level social housing fund to match already existing PMCMV funds. A new management agency, Casa Paulista, facilitated development of about 107,000 housing units between 2011 and 2015.¹⁰ Subsequently, the agency

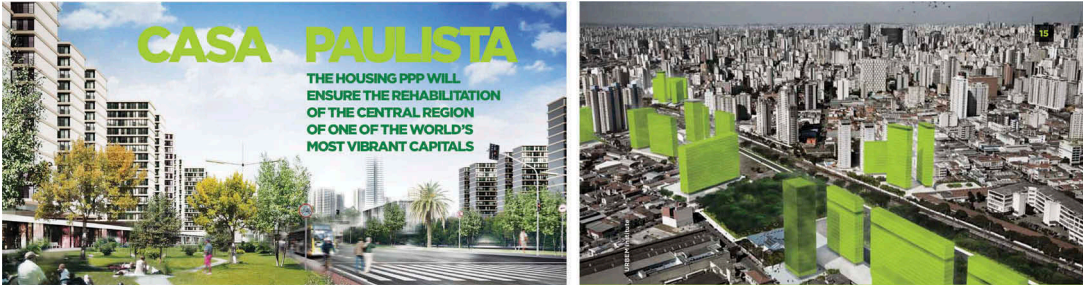


Figure 1. Casa Paulista model.

Sources: Above, State Government of São Paulo, 2013, Promotional Folder. Retrieved from (http://www.saopauloglobal.sp.gov.br/reacoes_inter/publica/folder_casa_paulista.pdf). Right: Urbem, 2016. Retrieved from (<http://www.urbem.org.br/casa-paulista>).

proposed adoption of PPPs to further scale up housing provision by attracting private capital. The first PPP that the agency modeled shared its name, Casa Paulista. At the time all three levels of government, central, state, and municipal, deemed PPPs as ideal to attract the private sector to produce low-income housing at scale, particularly in higher-cost metropolitan areas.

The Casa Paulista PPP model

On October 31, 2011, São Paulo's PPP Management Committee approved a proposal for facilitating, through PPPs, the development of 50,000 new housing units in the state's six metropolitan regions. Six months later, on April 16, 2012, the Committee issued a request for proposals (Conselho Gestor do Fundo Paulista de Habitação de Interesse Social—CGFPHIS 2012) to design and maintain, for the duration of a 20-year contract, 10,000 housing units and associated urban infrastructure within ZEIS 3 districts in six downtown areas of the city of São Paulo (Figure 1). An amended model was submitted to international tender on September 24, 2014, and on March 23, 2015, the São Paulo state government's housing department and a private developer, Canopus Holding (Canopus), signed the Casa Paulista PPP contract. The International Finance Corporation (IFC), the World Bank's private-sector arm, is a shareholder in Canopus. While not a partner in Casa Paulista, IFC offers technical and financial backing to Canopus and security that other midsize housing developers lack.



Figure 2. Casa Paulista projects.

Left: São Caetano Project. Source: Author. Right: Rendering of Julio Prestes Project, designed by Biselli & Katchoborian Associated Architects. Retrieved from <http://www.bkweb.com.br/projects/institutional/complexo-habitacional-julio-prestes/>.

Table 1. Scope of Casa Paulista PPP in the different phases of the modeling process.

Eligible Mortgage Buyers Per Income Category (MMW)	Housing Category	Number of Housing Units per Modeling Phase							
		Public Notice		Original Model		Tender		Contract (*)	
		Units	%	Units	%	Units	%	Units	%
1 to 5	HIS	9,000	90	12,508	62	9,000	64	2,260	61
5 to 10	HMP	1,000	10	3,159	16	5,133	36	1,423	39
10 to 16	Market	-	-	4,554	23	-	-	-	-
Total		10,000		20,221		14,133		3,683	

Source: Author/(*) The final contract directed HIS units to population with earnings equivalent to between 1 and 6 MMW.

Table 1 presents variations in Casa Paulista during its different stages: public solicitation, original and amended models, and the final contract. Notably, the contract's scope represents only a quarter of what was sent out for tender, and a fifth of the original model. According to the contract, the public sector bears the responsibility to provide land to HIS developments, while the private contractor is responsible for assembling land for development of HMP; 70% of Casa Paulista's capital is based on financing obtained from public sources (Canopus, 2014).

By January 2018 Casa Paulista had delivered two small-scale projects, the São Caetano and the Glete sites, totaling 217 housing units. Still incomplete was Julio Prestes, a larger project with 1,202 units that included installations for the São Paulo City School of Music. These developments represented less than half of the production planned in the Casa Paulista contract (Figure 2).

As these findings indicate, a PPP such as Casa Paulista does not leverage new sources of private capital at the scale that sponsors of the program had originally estimated (Negócios, 2013).¹¹ Instead, public funding is the major source of finance for Canopus' upfront investment in Casa Paulista. Moreover, housing production volumes do not support the assumption that PPPs are more likely than traditional public housing programs to scale up housing developments and attract a large influx of families to move downtown. Nonetheless, through Casa Paulista, PPPs have become part of the São Paulo state housing policy menu, with three new requests for proposals issued between 2015 and 2017. These could yield the development of 19,000 new units, although all three lack signed contracts at the time of this writing (Ferraz, 2016).

Through the commitment of traditional public funding sources, Casa Paulista has enabled the São Paulo state government to inaugurate a new housing regime based on debt finance, with private developers such as Canopus as intermediaries. In the process, the state has facilitated a fundamental, albeit gradual, transformation in the approach to housing policy and provision. Next, I discuss two elements of this transformation: first, the prioritization of an abstract model over actually existing housing needs and practices on the ground; and second, the selective approach to the rules of ZEIS 3 districts that the state adopted in Casa Paulista, by which the state emphasized development incentives and de-emphasized requirements for direct citizen participation in planning and development decisions. Finally, I point to an outcome of the new housing regime that Casa Paulista facilitates, namely, an ad hoc and opaque system of land assembly, whereby the São Paulo state government, represented by its housing department and Canopus, can place the decision-making process for the allocation of public land to housing projects outside public control. This directly contradicts the right to the city ideal.

Abstract urban and housing model

Piratininga Architects Associated (Piratininga), a local urban planning consultant firm, designed a proposal for a housing-based urban redevelopment strategy of São Paulo's central area that heavily influenced the early stages of Casa Paulista's design. Under a contract to update the state's inventory of idle land and buildings in the downtown area to support conversion of vacant property into social housing, Piratininga developed in 2006 and updated in 2010 a typology of urban vacancy and

a proposal for downtown redevelopment. During an interview on August 12, 2015, Architect José Armenio de Brito Cruz, a founding partner of Piratininga, explained:

The São Paulo state government had already invested in many sectors to boost the downtown's economy; it was time to invest in housing and to promote a strategy based on the characteristics of the downtown's built environment. Through the terms of reference of the public solicitation, the state played its role as a regulator. It formulated a very good question, which was: how to recover the city center through housing development.

Cruz also noted that “in 2006 there was still a process of population loss from the city center, up to 300,000 people per year; so we estimated that up to 600,000 people could go back to the center while maintaining the same level of infrastructure.” A 2008 study by São Paulo's Department of Economy and Planning calculated that, due to infrastructure development costs, particularly with rail-based transit systems, capital requirements for affordable housing developments in downtown were equivalent to 60% of those at the city's periphery.¹²

Through Casa Paulista Agency, the state housing department drew from Piratininga's study to develop the public solicitation for a housing PPP in the central city. A recently established not-for-profit planning firm, Urbem, responded with a programmatic solution applicable to all target areas. Based on large-scale, mixed-use and mixed-income developments, it doubled the size of Casa Paulista's original proposition.

Urbem's proposal contradicted one of the main assumptions undergirding Casa Paulista's call for proposals, i.e., that new sources of private capital were required to scale up housing provision in São Paulo. Instead, the proposal relied on existing public funds and financing sources, namely, PMCMV and SFH at the national level, and the new state-level social housing funds. Low interest rate infrastructure loans were considered to finance infrastructure and sales revenue from HMP units and rent revenue from commercial units were considered to cross-subsidize HIS development and long-term maintenance (Urbem, 2012). At a presentation of the Casa Paulista Model at the Brazil Institute at the Woodrow Wilson Center, in Washington, DC, on June 18, 2013, Urbem's Executive Director, Phillip Yang, explained how the combination of low-risk, primarily domestic funds would help lower the cost of capital to São Paulo state and increase the program's scale. In fact, given the availability of public funds at the time, Urbem's team worked with the idea of “flooding the downtown area with low-income housing.” It was assumed that a financially innovative program based on matching funding and cross-subsidization would help attract federal housing subsidies, while increases in supply would bring down housing prices.¹³

The idea that urban policy should incentivize low-income housing development in downtown São Paulo, giving idle property and land a social function, draws from organized pressure of social housing movements and is directly connected to the establishment of ZEIS 3 districts in the city. While the goal of ZEIS districts is enhancing tenure security of low-income residents, the objective of the state in promoting the PPP Casa Paulista, already reflected in the public solicitation, was exploring a property-led economic development strategy in the area. Hence, housing needs of low-income families served as a canvas for the design of the PPP's abstract housing model. Below I discuss how this has affected families on the ground, and is disconnected from actual housing experiences, despite being based on the characteristics of the built environment.

Carmem Ferreira da Silva, a community leader at Frente de Luta Pela Moradia (FLM), one of the housing organizations active in downtown São Paulo, explained in an interview on August 17, 2015, that the social housing movement's main challenge is to find ways for low-income families working and living in downtown who require large amounts of housing subsidies to benefit from public programs. She did not believe that the PPP Casa Paulista addressed this objective.

We fight for families to be included in available public programs, preferably in the city center, but there are no programs available here for families with very little earnings It is clear to us that the PPP isn't an inclusive program; it's selective. We disagree with the program transferring land from the public to the private sector to produce housing. We don't agree because by doing this, the program will never reach the low-income population—those earning less than 1,600 Reais. The PPP will serve the middle and high-income classes.

Marilia, a FLM member, explained how she and her family joined the Occupation Hotel Cambridge, in downtown São Paulo, in 2012, to be close to their jobs.¹⁴ In June 2011 the São Paulo municipality expropriated the decade-long vacant building where Hotel Cambridge used to operate, to retrofit it into low-income housing. After a year and a half, FLM occupied the building to press for developments to start. Eventually, Marilia became one of the assistant administrators of Occupation Hotel Cambridge, responsible for maintenance of the building, organization of social activities and operation of a cooperative bakery. Negotiations between FLM, the municipality, and Caixa (the federal housing financing agency) to refurbish the building were underway in 2014 when I interviewed Marilia, but it was only in 2018 that the project started.

Before living here, I had a three-hour daily commute. One day I was passing by this building and saw a lot of people by the front door. They are occupying this building, I thought. I came back the next day, I met a woman inside and asked if there was space for my family and me. She told me that if I came back the same day I could get an apartment. She gave me a list of basic supplies to bring. I went to my apartment, called a truck, packed my things, went to the construction store and came back. ... The building was very dirty and dilapidated. First, we cleaned up everything, so that the families could start moving in. Then we pulled up water and electricity installations for every apartment. The original electric wires had already been removed from the building to be sold as scrap when we arrived, otherwise it would have been easier to wire the apartments.

Observations of existing housing solutions such as in the Occupation Hotel Cambridge challenge abstract ideas about the inability of families in need of low-income housing to participate in the production and maintenance of housing projects, often referred to by public and private developers involved in the Casa Paulista PPP. Another example of developer's reliance on abstract notions of the resident population and their relationship with the built environment was issuance of the Decree for Social Interest (DIS) 59.273, which listed 900 properties within the Casa Paulista perimeter suitable for expropriation to facilitate land assembly.

During an interview on December 2014, Reinaldo Iapequino, Executive Director at Casa Paulista Agency, explained that the goal of DIS 59,273 was to avoid the impact of rising land prices that threatened the feasibility of the program while giving developers flexibility to expand the PPP's coverage area. However, to the local population, DIS 59,273 represented a threat of immediate removal. Residents contested the DIS 59,273 through organized meetings with state legislators, and testimonies at Casa Paulista informational meetings, which the state had organized with representatives of the development sector. São Paulo State Governor Geraldo Alckmin revoked DIS 59,273 on November 29, 2013, as the state also verified through meetings with developers that the granting of eminent domain authority was not attractive to them. It was decided that responsibility for land assembly would be the state's. During an interview on July 15, 2015, Architect Milton Braga, Architecture Director at Urbem, also explained:

In our model, we indicated specific plots to be developed. Then at the state, they thought, well the city is very dynamic, so rather than declaring social interest only over the mapped plots, let us increase the area so that it covers the whole block where these plots are located. At the time I saw this as a kind of zoning. In addition to the ZEIS, now there would be a social interest decree for the blocks where this program would be developed. ... [However] at the time, you must remember, a lady living there fifty years ago came up to speak, ask why they were going to take her house to set up another house, this was not fair ... but it was not her plot that was indicated [in the plan], it was her neighbor's! Only hers got into the larger DIS map. ... There was a lot of noise, much confusion, we were accused of having made a survey by Google maps, and the government was accused of contracting a bad job. And from there the solution was to revoke the decree.

Selective approach to land use requirements in ZEIS 3 districts

Emphasizing development potential when targeting ZEIS 3 districts to implement Casa Paulista, the state did not consider the participatory planning mechanisms and procedures that the ZEIS legislation required. This was a strategic choice that, while not without contestation, later enabled the state and Canopus to control Casa Paulista's housing production process.

The city of São Paulo strategic master plan of 2002, active when Casa Paulista's public solicitation was issued, required the creation of local resident management councils within ZEIS 3 districts slotted for development, with participation of current and future residents, and local government representatives, during all phases of development (Article 175).¹⁵ However, the public solicitation only cited ZEIS 3 as a development opportunity, emphasizing how, within ZEIS 3 districts, the increase in density to four times the area of individual plot sizes, without extra cost to private developers, represented an incentive for developers to build low-income housing (CGFPHIS 2012, Annex 1, p. 25). This narrow framing facilitated the replacement of participatory planning rules of ZEIS 3 districts with the more restrictive public consultation procedures of São Paulo State PPP Law, no. 11.688/2004. These procedures are more compressed in time, scope and ways of communication. A 30-day notice period is required before the launching of a tendering process, informing the nature, duration and estimated value of the proposed contract. Communication occurs indirectly, through submission of written suggestions pertaining to a project's specific elements.

Only one Casa Paulista official meeting, a public hearing, took place, on March 25, 2013, to inform civil society, including potential bidders, about the new model. Subsequently, as government officials working at the Casa Paulista Agency met with private developers interested in bidding for PPP contracts, local residents joined in some of the meetings to voice their specific concerns with the PPP and oppose DIS 59,273. Organized housing and advocacy groups also issued an open letter during the PPP's public consultation period expressing the concern that Casa Paulista's public participation process was not in line with ZEIS 3 requirements (Rolnik, 2013b).¹⁶

During the public consultation period, the São Paulo State Public Prosecutor's Office requested the suspension of Casa Paulista, citing the lack of public participation during the design of the model, which was against the City Statute (articles 2, 4 and 44).¹⁷ The São Paulo State Justice Court suspended the PPP but subsequently revoked the suspension, based on request by São Paulo State Attorney's Office, which alleged that "a public hearing happened on February 27, 2013, according to the terms of the PPP law, with the participation of almost one hundred people, including representatives of the organized housing movement, the Public Defender's Office, Universities and civil society organizations, and ample debate of the subject matter" (Associação dos Procuradores do Estado de São Paulo, 2013). Two lawyers working at the City of São Paulo Legal Department explained during interviews that they disagreed with the Justice Court's final decision. It singularly focused on whether Casa Paulista respected the terms of the PPP law with regard to public participation, but it did not consider how the PPP law is quite restrictive, requiring only a single session of community consultation rather than the ample participation that the City Statute requires.¹⁸

Overall, by not following the ZEIS 3 rules, according to the municipal master plans of 2002 and 2014, the state prevented broad community involvement in housing development decisions, urban production, and city space appropriation. Also, by substituting the rules of ZEIS with the rules of PPP, the state government stepped over the municipal mandate of ruling over land use, as established in Article 182 of the Brazilian Constitution and Article 4 of the City Statute.

Ad hoc and opaque land assembly

The lack of public participation facilitated an ad hoc and opaque land assembly process for Casa Paulista PPP projects, whereby decisions are made according to the interests of the state and its private partner, Canopus. This is exemplified in the level of discretion these agents have had over site selection for Casa Paulista projects in São Paulo's central area.

After DIS 59,273 was revoked, an amended PPP model placed the responsibility for allocating land for the provision of HIS with the state government, by using federal, state and municipal land transferred to the program. Ely Biasoli Dias, Casa Paulista Managing Director at Canopus, explained

in an interview on July 28, 2015, that this decision overestimated the number of public properties readily available for housing development in the city's central area, and underestimated institutional, legal, environmental and political constraints.

The major difficulty in any housing PPP is the identification of areas, because private developers cannot absorb the cost of purchasing land and execute the contract within the limits that the government has established. However, the state and the municipal housing department did not know the dimension of the problems with these areas that were previously identified to be offered to the winning companies of the bid. They all have problems. And they are realizing that it can take a very long time before these areas can be offered to us.

On September 22, 2014, the São Paulo state government's housing department and São Paulo city, through its housing department (SEHAB) and housing company (COHAB), signed an agreement in support of Casa Paulista, whereby the municipality committed to investing the equivalent of \$8,334 (2014 value), in cash or land, to the program, for each housing unit built. After the PPP contract signing, SEHAB created a list of available plots for PPP developments. According to Dias, the most suitable sites on the list were, to a large extent, already the object of negotiation between the city and social housing organizations, to meet the demand of affiliated families, according to the municipal system of housing provision. As neither the state nor Canopus was willing to comply with the municipal system, sites already under negotiation with social housing organizations were eliminated from Casa Paulista's list.¹⁹

With site selection and housing project scope being decided after the signing of the PPP contract, the state and Canopus were granted significant control over development decisions. How this has affected Casa Paulista's daily operations is exemplified in Dias' response to the inquiry about Canopus' plans to develop HMP, and whether these would help facilitate mixed-income developments as was intended in the PPP's original conceptualization. Dias explained:

One thing is what the law or the tender document establishes, the other is our reality. This is not a conventional tender, where all the parameters are previously established and I comply with it. No, we have to build this relationship, day after day. I will only be able to define what I am building specifically when I have the land. I will only be able to interconnect the projects when I have the actual plots.

Dias' statement reveals how, through daily operations, the criteria for development decisions within Casa Paulista shifted from providing housing to families in need to identifying public plots that matched the development interests of Canopus and the state. Local community's lack of control over the process is exemplified in a comment by Carmem Ferreira da Silva, from FLM, during an interview on August 17, 2015: "We participate, we participate quite a bit, in the municipal housing councils and state housing council, but the PPPs, we know nothing about them. There are projects being developed and, all of a sudden, we find out it is a PPP."

Conclusion

Social groups have had some important victories in the context of the Casa Paulista PPP, particularly through resistance and struggle. One victory was the revoking of DIS 59,273, which threatened local residents' tenure security. Another relates to the assignment of housing units from the São Caetano site to organized families. However, these victories reinforce the argument that organized grassroots action in urban projects and programs loosely associated with the right to the city has continued to be mostly associated with blocking urban policy that threatens violation of basic rights (Earle, 2017; Freitas, 2017; Rolnik, 2013a). Moreover, some of these victories have also led to pushback, such as elimination of the list of sites already subject to agreement between the city and social housing movement from Casa Paulista's target sites.

It becomes clear from this analysis that Casa Paulista's partners prioritize the business of housing development and commercialization while, in contrast, goals associated with the right to the city must involve facilitating citizens' appropriation of the housing production process and the city. It is also clear that, in order to facilitate the unfolding of the PPP model, the policy goals

of ZEIS 3 districts were selectively addressed, and participatory requirements dismissed, through a phenomenon similar to that which Walker (2015) describes in the conflation of OP's goals in Porto Alegre. These findings have important repercussions for housing and urban policy in Brazil. On one hand, these show how state-level property-led PPPs can contradict local land use policy, despite the Constitutional mandate for local-level land use control. On the other hand, it reveals the need and potential for mechanisms that incentivize property and the city's social function, such as ZEIS, to be more deeply and evenly explored, which did not occur in this case.

Quite often, urban projects implemented after the passing of the City Statute have relied on ideals of local economic growth and infrastructure provision, with projects generating more benefits to developers and private agents than to local communities as Carlos et al. (2015) and Fix (2004), among other authors, have described. In this sense, the case of Casa Paulista is emblematic. Because it produces low-income housing, and not roads or commercial developments, the argument that the PPP is in line with the right to the city ideal is more difficult to refute. However, as I have described in this paper, the PPP stands against the ideal of citizen participation and appropriation of the urban production process, which is central to the right to the city. Based on these findings, I argue that the PPP Casa Paulista favors a top down and opaque housing provision system, while showing no evidence that it can facilitate access to greater social and economic opportunities in the city center by lower-income populations. In fact, given its narrow focus on property development, it is unlikely that Casa Paulista will facilitate greater access to economic and social opportunities, except to families that the PPP directly affects. Moreover, most likely this outcome will be limited to the duration of the PPP contract, since there are no contractual provisions that housing will remain affordable once the mortgage contract is paid off. Because the main strategy to promote social and economic inclusion through Casa Paulista is by facilitating centrally located housing, a return of families of lower income to peripheral areas will constitute a regressive outcome. A similar outcome would be expected from other housing PPPs following the Casa Paulista model.

Despite policy goals of leveraging private capital and expanding private markets to better support and even replace state-led infrastructure and service provision systems, historically in Brazil, developers have relied on public resources to invest in infrastructure and housing development as Royer (2009) and Shimbo (2010), among others, have described. Similarly, as this study has demonstrated, developers were less willing to invest in the Casa Paulista PPP when the availability of public resources was reduced. Hence, the question becomes whether the PPP is the most adequate model for housing provision in Brazilian cities. Based on these findings, I argue that it is not. Currently in Brazil, with less public funding to support housing production, it is reasonable to assume that private agents will be even less interested in investing their own capital in PPPs. In this scenario, incentives such as the allocation of public land for housing PPPs are likely to become a giveaway to private developers. The fact that local residents and organized housing groups do not participate in the PPP development process, such as described in the case of Casa Paulista, facilitates such an outcome.

To help avoid what Freitas (2017) qualifies as the undoing of basic rights enshrined in the City Statute, policy efforts to bring back residents and increase economic activities in central city areas must put at the forefront actual existing needs and practices of local residents and organized communities toward production of the urban space, and the business of building housing to serve the public interest. Future research should investigate new housing models unfolding from the Casa Paulista PPP throughout the country, revealing their own institutional arrangements and financial trade-offs, and assessing who benefits and who loses from their implementation.

Notes

1. Acronyms are presented in their Portuguese form, unless otherwise stated. Monetary values were converted from Brazilian reais (BRL) to U.S. dollars (\$), based on the exchange rate on the first working day of the year in which the value in BRL was issued, according to the Board of Governors of the Federal Reserve System (<http://www.federalreserve.gov/releases/h10/>).

2. The Brazilian legal minimum wage, or MMW, is a monthly reference.
3. According to 2017 Census data, the estimated population of São Paulo, Brazil's largest city was 11.2 million, and the average income of formally employed workers was equivalent to 4.2 MMW; however 31.6% of the population lived on the equivalent of half the MMW, or \$146 (Instituto Brasileiro de Geografia e Estatística, 2017). During the same period, of the city's 3.57 million households, 808,000 lived in precarious conditions. Over half of the households without an income, and 36% of those earning up to three MMW, lived in precarious conditions (Prefeitura de São Paulo, 2016).
4. Based on a sample data of the population in slum tenements in downtown São Paulo, Kohara (2013) indicated that the majority of members from this group worked in the informal sector, lived on earnings equivalent to one and three MMW (63.9% of the total), and depended on their central location to avoid expenses commuting to work. This group experiences highly vulnerable living conditions due to insecurity of tenure and rent burden (Barbosa, 2014).
5. According to Gatti (2015), housing projects with adequate construction and post-occupation oversight had favorable outcomes; however, scale of provision was typically quite small, i.e., 2,549 units delivered between 2004 and 2011, less than a quarter of the number of families living in centrally located slum tenements indicated in the 2009–2024 Municipal Housing Plan (Prefeitura de São Paulo, 2011).
6. The municipality classifies housing provision to families with earnings up to six MMW as housing for social interest (HIS), while provision to families with earnings between six and ten MMW is classified as market-affordable housing, or *habitação popular de mercado* (HMP).
7. For explanations of urban and legal instrument's goals, organization in the City Statute, and implementation at the local level through city master plans, see (Fernandes, 2007b).
8. In 2003, investments were in the order of BRL 5 billion, or the equivalent to BRL 6.5 billion in constant 2008 value, while in 2008 more than BRL 40 billion were invested.
9. Of all housing contracts celebrated during the first phase, 66% were with Brazil's largest companies. In the second phase, this was equivalent to 74%, with only 3.5% of production carried out by housing cooperatives (Cardoso & Aragão, 2012). According to Fix (2011), the launching of PMCMV coincided with the initial public offerings (IPOs) of property developers' companies. To comply with investor's profit expectations, developers formed large land banks, contributing to rising land prices and urban sprawl. To keep costs down and comply with PMCMV's parameters, developers focused on purchasing cheaper, undeveloped land, and lobbying municipalities to expand their urban boundaries (Fix, 2011; Sanfelici & Halbert, 2015).
10. During an interview on August 11, 2015, the Director of the Economy Department at the São Paulo State Real Estate Union (SECOVI), Celso Petrucci, qualified Casa Paulista Agency's new matching fund system as "the best thing that we have done for our state, with more than 100,000 units between 2011–2012 and 2014, through the partnership between PMCMV and Casa Paulista."
11. According to the report, original estimates were that the private sector would contribute with over 50% of the \$2.3 billion (2013 value) to be invested in Casa Paulista.
12. The study estimated that provision of housing, transportation and education facilities to 100,000 families would cost roughly of \$1.8 billion in the city's central area, and \$6.2 billion at the periphery. However, when the Casa Paulista PPP was proposed, property prices in downtown São Paulo were on the rise—partly due to the launch of PMCMV—as represented by a threefold increase in the average price for residential land between 2002 and 2012 (Secovi, 2011).
13. Ana Claudia Rosbach, international housing specialist and consultant to Urbem's proposal, spoke of Casa Paulista as financially innovative during an interview on August 8, 2013. Homero Neves, Director of Operations and PPP Specialist at Urbem, also spoke about an increase in supply affecting housing prices during an interview on August 10, 2013.
14. Interview on December 11, 2014. The interviewee's name was changed to protect her identity.
15. The 2014 master plan, Article 48, limited participation in ZEIS 3 councils to current residents.
16. Such disregard for the ZEIS ruling was significant, especially because Casa Paulista unfolded in the same territory of the Nova Luz Project, a mega development aimed at reconfiguring a 45 block area in downtown São Paulo. According to Gatti (2015), actions by the ZEIS 3 C 016 resident council, created in response to Nova Luz, provided the legal basis for the project being revoked due to a marked absence of social participation in the early development's stages.
17. The Public Prosecutor's Office (MP) is an independent judicial entity that operates at the federal and state levels according to articles 127 to 135 of the Constitution. The MP operates through three different bodies including the Prosecutor. Among other functions, the MP is responsible for ensuring respect to urban legislation.
18. Interview with two anonymous sources on July 19, 2015, and September 24, 2015.
19. COHAB managed the plot on São Caetano Street—Casa Paulista's first project. Originally, COHAB had agreed to deliver housing at that site to organized families being resettled because of roadwork. The transfer of the site from COHAB to Casa Paulista required approval by the municipal housing committee (CMH), which includes representatives of the social housing movement as members. CMH conditioned approval of the transfer to Casa Paulista on it honoring COHAB's previous agreement with the organized families.

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