

BRAZIL

SAO PAULO— SALE OF PUBLIC LAND OR ASSIMILATED

LAND VALUE
CAPTURE

OODC - Outorga Onerosa de Direito de Construir

DESCRIPTION

Sale at administrative price of additional building rights above a basic FSI, both basic and maximum FSI depending on the area inside the city and corresponding existing infrastructure capacity and other urban characteristics. The right is necessarily granted and sold as part of a concrete construction project (unlike CEPAC). The revenue is segregated in a specific urban development fund and earmarked to finance a broad range of urban infrastructure in the underequipped areas of the Municipality.

LEVEL OF GOVERNMENT INVOLVED

Municipal government

INSTITUTIONAL AND REGULATORY FRAMEWORK

The Municipality controls building rights, as well as responsibility of most of urban ("local") services. However, some key services such as urban rail transit, intermunicipal bus transit and water and sanitation are managed by State companies. Decentralization by the 1988 Constitution following return to democracy was not backed by proportional revenue transfers. São Paulo Municipality, as other Municipalities and federated States, financed massively infrastructure spendings through unsustainable borrowing leading to federal backing to avoid default in the late 1990s, with very strict associated finance management constraints.

TRACK RECORD OF THE USE OF THIS INSTRUMENT

OODC was experimented from the late 1980s on by Municipalities such as Porto Alegre, Curitiba or Natal. It is regulated as a tool to be voluntarily included in the city masterplan (plano diretor) by the Law on the Statute of Cities in 2001, that defines the features of the tool and the issues on which the money may be spent. It was included in São Paulo strategic masterplan in 2002 and further detailed by region in 2004. In 2004 were approved maximum stocks of extra building rights by region and by use (residential/commercial), totalling 10 million sqm incl. 70% residential. The Municipal masterplan was revised in 2014. In the draft law of the strategic municipal masterplan, basic FSI was uniformly set to 1 across the Municipality, lower than previous FSI in some areas. But strong lobbying by real estate sector and opposition from the Municipal secretary of finance (out of fear that reduced FSI would lead to reduced land value and decrease in property tax) led to several adaptations, reducing the impact of OODC. Basic FSI was set at 1 to 2, depending on areas. A mechanism called Adiron formula allowed to double basic FSI if halving the project footprint, and transitional FSI were set for 2 years. In most areas of the city, basic FSI matched with previous maximum FSI (thus preserving landowners), resulting basically in increasing buildability.

EVOLUTIONS AND OUTCOMES

A basic FSI of 1 to 2 and a maximum FSI of 2,5 to 4 depending on areas (with some other areas meant to be conserved with low density not subjected to OODC). Around 410 million of euros were collected between 2004 and 2011 (3,7% and 8,9% of property tax revenues between 2007 and 2011), for 3,3 million additional sqm granted (124 euros / sqm on average), accounting for less than 10% of total building license volume. The money was spent mainly on drainage and wastewater, heritage conservation, mobility and land titling).

STAKEHOLDERS INVOLVED

OODC are backed by civil society as a redistributive and progressive tool (on the contrary of OUC). Real estate agents were already used to pay for additional building rights thanks to previous OUC, but kept fighting to lower this value (through higher basic FSI and low reference values) and to maximize their potential gain (through higher maximum FSI) in a context of land scarcity. Politicians are interested in the investment capacity brought by this tool, but don't want to discontent the real estate sector, large contributors to political campaigns and subjects to shifting their activities and investments towards neighbouring municipalities. Land owners would fight against any measure reducing the value of their land.

PUBLIC MANAGEMENT AND ACCOUNTABILITY

The strategic masterplan, which incorporates OODC, is a Municipal law, adopted by the Municipal Council after several public hearings, including thematic and territorial meetings, with previous diffusion of relevant material. The FUNDURB (Fundo de Urbanização), to which OODC revenues are allocated, is controlled by a council made of representatives of diverse Municipal departments and companies (16 members) and representatives of the civil society (9 members) meeting twice a year. All information is easily accessible online.

ANALYSIS AND ASSESSMENT OF THE TOOL

- This tool allowed to collect modest but significative revenues for urban investments, but its potential was greatly reduced by the real estate sector influence and due to the property tax base (reference for OODC computation) lack of actualization.
- It allowed densification mainly in the areas with greater real estate dynamism (maximum stocks of building rights were computed from recent real estate production history and land availability by district), with controversial urban effects, such as allowing great expansion of outlying booming upper end areas, and much less in more central areas where densification was considered as more efficient from an infrastructure use point of view.
- The "planning" and "social interest" factors, that introduced coefficient lowering or increasing OODC depending on the uses and some areas, had no real impact on the production, because their financial significance was too small compared to the overall operation balance.