

## **Virtues and ills of private funding urban development: impasses in the actually existing joint urban operations**

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The purpose of this paper is to discuss and critically approach a planning instrument that has become increasingly popular among Brazilian city governments since the Cities Charter (Estatuto da Cidade) was approved in 2001, the Joint Urban Operation.

An Urban Operation, as any public-private partnership, is a legal framework that allows the participation of private actors in the funding – and in the share of benefits – in actions of public interest. The specifics of urban operations are that they concern urban transformations in a pre-defined territory, delimited by a perimeter, and that they are funded through the selling of financial titles called CEPAC. Issued by the city and tradable as means of payment in exchange of building rights, each CEPAC is equivalent to an amount of square meters for use in additional construction area above the normal local parameters, and at the same time is a financial title whose value can increase or decrease according to the market.

Urban Operations figure among those planning instruments conceived to allow the public power to capture part of the land plus-value in areas under valuation, that otherwise would be pocketed by land owners and developers alone. They have been inspired and compared in the literature to the French *ZAC – Zone d'Aménagement Concerté*, as well as to similar Colombian experiences.

Urban Operations create “strategic exceptions” to zoning law in the perimeter in which they are planned, easing limitations so that developers can build above the normal parameters for the city by acquiring CEPACs. The city monetizes the sold building rights, and by doing so, collects funds that must be reinvested in urban transformations in the same area.

In the years that followed its regulation by the Cities Charter, five urban operations have been approved and are currently being developed in Brazil, being three in São Paulo, one in Rio de Janeiro and one in Curitiba. There are numerous others under debate in different Brazilian cities and the expectation of several municipalities is to activate this planning instrument within the next year.

In this paper I take the case of Urban Operation Água Branca, in São Paulo, the latest of them, approved in October 2013, to critically analyze the instrument, considering the abyss between what is stated by its defenders (the discourses on the instrument, or what I call *ideally speaking* Urban Operations) and what has been really taking place in the development of this planning practice (the *actually existing* Urban Operations).

The discourses pro-urban operation defend that, if successful, they allow the realization of self-funded large scale urban projects, conducted by the public power but without use of the public treasure. Transformations are paid by those who will largely benefit from them, owners and developers with interest in the area. These funds can be used for infrastructure, public equipment, social housing etc., and this possibility of transferring private money for public interests makes some even call urban operations a “Robin Hood” planning instrument.

The criticisms towards the instrument point at some issues. Firstly, as the realization of an urban operation depends directly on market interest, they tend to focus on already privileged and attractive regions. Even if they can be self-financing, which in fact is seen as unlikely, they will demand a large commitment of public administration capacity, already quite restricted. This commitment takes place at the expense of other areas, reducing its operating capacity in vulnerable territories. Another point is that the obligation that the resources acquired with the selling of CEPACs are reinvested within the same perimeter in which they were sold will concentrate investments and foster gentrification, be it in the short, mid or long term.

In the *actually existing* Joint Urban Operation Água Branca, the first auction for CEPACs was a disappointment, with only 9% of the titles put in auction sold. The city administration expected to raise over 91 million BRL, but raised only 9 million BRL. The long list of priorities for these resources – ranging from social housing provision,

construction of new schools and health equipments to the building of a new bridge crossing Tietê river –, the expectant population of local *favelas* and the active group of public managers, residents and organized civil society that participate in the debates and decisions regarding the operation, will all have to wait.

The occasion highlights the great impasses in conditioning urban development to the possibility of private funding. On the one hand, the possibility of convening those who monetize with the city's production to bear the costs of the necessary urban transformations is highly attractive to local governments. Urban operations, as PPPs in general, are now the golden goose of urban development, and the evidence of that is their multiplication throughout Brazilian cities. On the other hand, the success of urban operations depends directly of market interest and more than that, of a situation of heated market. Without either, the operation is likely to be paralyzed: there are no resources, and the transformations do not happen.