



# URBAN LAW IN COLOMBIA

URBAN LEGAL CASE STUDIES VOLUME 5

**UN HABITAT**  
FOR A BETTER URBAN FUTURE





# URBAN LAW IN COLOMBIA

URBAN LEGAL CASE STUDIES VOLUME 5

UN  HABITAT

## **URBAN LAW IN COLOMBIA**

First published in Nairobi in 2018 by UN-Habitat

Copyright © United Nations Human Settlements Programme 2018

All rights reserved

United Nations Human Settlements Programme (UN-Habitat)

P. O. Box 30030, 00100 Nairobi KENYA

Tel: 254-020-7623120 (Central Office)

[www.unhabitat.org](http://www.unhabitat.org)

HS Number: HS/057/18E

ISBN Number(Series): 978-92-1-133365-7

ISBN Number:(Volume) 978-92-1-132809-7

### **DISCLAIMER:**

The designations employed and the presentation of the material in this guide do not imply the expression of any opinion whatsoever on the part of Secretariat of the United Nations concerning the legal status of any country, territory, city or area of its authorities, or concerning the delimitation of its frontiers or boundaries. Views expressed in this publication do not necessarily reflect those of the United Nations Human Settlements Programme, the United Nations, or United Nations Member States.

### **ACKNOWLEDGEMENTS:**

Coordinator: Robert Lewis-Lettington

Team leader: Gianluca Crispi

Principal authors: Juan Felipe Pinilla P. and Juan Francisco Rodriguez Vitta

Editor: Katie Cashman

# CONTENTS

ACRONYMS .....	VIII
EXECUTIVE SUMMARY .....	IX
INTRODUCTION .....	1
<b>01 THE COLOMBIAN URBAN LEGAL SYSTEM .....</b>	<b>7</b>
<b>1989 Urban Reform Act .....</b>	<b>8</b>
<b>1991 National Constitution .....</b>	<b>9</b>
<b>1997 Act 388 Territorial Development Law (LDT) .....</b>	<b>10</b>
<b>National Complementary Regulation (Decree 1077 of 2015) .....</b>	<b>11</b>
<b>Principles and Components .....</b>	<b>16</b>
Principles.....	16
<i>Urbanism as a Public Function .....</i>	<i>16</i>
<i>The Social and Ecological Function of Property.....</i>	<i>16</i>
<i>Equitable Distribution of Benefits and Burdens of Planning.....</i>	<i>17</i>
<i>General Interests Takes Precedent Over Individual Interests .....</i>	<i>19</i>
<i>Municipal Autonomy.....</i>	<i>19</i>
Components .....	19
<b>Territorial Ordinance Organic Law .....</b>	<b>20</b>
<b>Land Ownership Regime .....</b>	<b>20</b>
<b>Associated Management .....</b>	<b>21</b>
<b>Public Private Partnerships.....</b>	<b>22</b>
<b>02 THE COLOMBIAN GOVERNMENT</b>	
<b>AND INSTITUTIONAL FRAMEWORK .....</b>	<b>25</b>
<b>Political-Administrative Organization for Territorial Development .....</b>	<b>25</b>
<b>Distribution of Competences .....</b>	<b>27</b>
<b>Normative Hierarchy .....</b>	<b>29</b>



<b>National Institutional Framework .....</b>	<b>29</b>
Housing Administration.....	29
Land Administration .....	32
Cadastral System .....	35
<b>Local Institutional Framework .....</b>	<b>36</b>
Municipal Territorial Planning Processes .....	36
Local Planning Office .....	37
Local Environmental Authority .....	38
Planning Advisory Council .....	38
<b>03 URBAN PLANNING INSTRUMENTS .....</b>	<b>41</b>
<b>Land Use Master Plan (POT) .....</b>	<b>41</b>
Land Classification.....	44
Land Qualification - Land use types and intensities .....	46
Urban Managing Conditions.....	47
<b>Intermediate Planning Tools: Partial Plans, Macroprojects,     and Neighborhood Betterment Programs.....</b>	<b>50</b>
Partial Plans .....	50
<i>Case Study: PP Tres Quebradas of Usme             Zonal Plan, Bogotá.....</i>	<i>58</i>
Urban Macroprojects .....	61
<i>Case Study: Macroproject Ciudad             Verde in Soacha, Bogotá .....</i>	<i>66</i>
Neighborhood Improvement Programs.....	67
<i>Case Study Project- PMIB – Juan Bobo             Neighborhood Improvement Program.....</i>	<i>67</i>
<b>Urban Licenses/Permits .....</b>	<b>70</b>
<b>Urban Development Actions.....</b>	<b>72</b>
Parceling .....	73
Urbanization.....	73
Construction .....	74
<b>Creation of Public Space with Land Transfer .....</b>	<b>75</b>

<b>04</b>	<b>LAND MANAGEMENT TOOLS</b> .....	<b>83</b>
	<b>Urban Action Units</b> .....	<b>83</b>
	<b>Land Readjustment</b> .....	<b>85</b>
	<i>Case Study: Land Readjustment in La Brasilia</i> <i>Neighborhood after Earthquake</i> .....	88
	<i>Case Study: Participatory and Inclusive Land</i> <i>Readjustment (PILaR) in La Candelaria, Medellín</i> .....	92
	<i>Case Study: Land Readjustment as a Means of Participation</i> <i>and Inclusion of Communities in Urban Renewal:</i> <i>The Experience of the Fenicia Project in Bogotá</i> .....	98
	<b>Cooperation Between Participants</b> .....	<b>129</b>
	<b>Mechanisms to Prevent Land Speculation</b> .....	<b>129</b>
	Freezing of Land Prices through Project Announcement.....	129
	Right of First Refusal.....	130
	Declaration of Priority Development.....	131
	Reference Appraisal.....	132
	<b>Voluntary Disposition</b> .....	<b>132</b>
	<b>Expropriation (Eminent Domain)</b> .....	<b>133</b>
	<b>Regularization</b> .....	<b>134</b>
<b>05</b>	<b>FINANCIAL TOOLS</b> .....	<b>139</b>
	<b>Land Value Sharing</b> .....	<b>139</b>
	Capital Gain Sharing .....	141
	Betterment Tax Contributions or Special Assessments .....	142
	Developer Exactions (Urban Transfer Obligations) .....	147
	Transferable Development Rights (Allocation of Buildability Rights) .....	152
	The Annual Tax on Immovable Property (The Property Tax).....	160
	<b>Urban Renewal Bonds</b> .....	<b>164</b>
	<b>Urban Renewal Promissory Note</b> .....	<b>164</b>
	<b>Land Banks</b> .....	<b>164</b>
	<i>Case Study: Metrovivienda: The City Land Bank of Bogotá</i> .....	166
	<b>Real Estate Trust Funds</b> .....	<b>167</b>
	<b>REFERENCES</b> .....	<b>170</b>

# ACRONYMS

<b>CAR</b>	Regional Autonomous Corporations (Corporación Autónoma Regional)
<b>CEPAC</b>	Certificates of Potential Additional Construction (Certificados de Potencial Adicional de Construcción)
<b>DANE</b>	National Administrative Department of Statistics (Departamento Administrativo Nacional de Estadística)
<b>DNP</b>	National Planning Department (Departamento Nacional de Planeación)
<b>EDU</b>	Urban Development Company (Empresa de Desarrollo Urbano)
<b>FONVAL</b>	Betterment Fund (Fondo de Valorización)
<b>FONADE</b>	Financial Project Development Fund
<b>FOREC</b>	Coffee Region Reconstruction Fund (Fondo para la Reconstrucción del Eje Cafetero)
<b>IGAC</b>	Agustin Codazzi Geographic Institute
<b>LDT</b>	Territorial Development Law (Ley de Desarrollo Territorial)
<b>LOOT</b>	Territorial Ordinance Organic Law (Ley Orgánica de Ordenamiento Territorial)
<b>LR</b>	Land Readjustment
<b>MAVDT</b>	Ministry of Environment, Housing and Territorial Development
<b>MISN</b>	Macroprojects of National Social Interés (Macroproyectos de Interés Social Nacional)
<b>MVCT</b>	Ministry of Housing, City and, Territory (Ministerio de Vivienda, Ciudad y Territorio)
<b>NC</b>	National Constitution
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>PILaR</b>	Participatory and Inclusive Land Readjustment
<b>PMIB</b>	Neighborhood Improvement Program (Programa de Mejoramiento Integral de Barrios)
<b>POT</b>	Municipal Land Use Plan (Plan de Ordenamiento Territorial)
<b>PP</b>	Partial Plan (Plan Parcial)
<b>SFV</b>	Family Housing Subsidy (Subsidio Familiar de Vivienda)
<b>TDR</b>	Transferable (or Tradable) Development Right (Derecho de Desarrollo Transferibles)
<b>UAU</b>	Urban Action Unit (Unidad de Actuación Urbanística)
<b>VIS</b>	Social Housing (Vivienda de Interés Social)
<b>VIP</b>	Priority Housing (Vivienda de Interés Prioritario)

# EXECUTIVE SUMMARY



Urban Law in Colombia has developed significantly since the country promulgated its National Constitution of 1991, and is now considered the most advanced and comprehensive urban legal framework in the Latin American region. In pursuit of a livable standard for urban residents, amidst rapid population and urban growth, the Colombian government has institutionalized a decentralized territorial development organization and a large variety of legal tools to enable Colombian cities to develop sustainably, equitably, and with collaborative participation from all city agents.

The urban legal framework is founded on core principles of land ownership, management and administration. These principles pervade the institutional framework from the top level National Constitution to each municipality's territorial plan. The national Territorial Development Law established in 1997 requires each municipality to produce local development plans and establish a contextual institutional procedure for enacting housing, transportation, basic service provision or other such urban projects, whether on the large or small scale.

One of the most relevant principles of Urban Law in Colombia, founding the national 'land ownership regime', is the social and ecological function of property: the right to property is not absolute but it can be restricted for social and ecological reasons. As such, private property ownership grants landowners not only a bundle of rights but also duties and obligations to the community. This principle accounts for the general acceptance of land value sharing and other land based financing tools that generate local revenue for development projects, while attempting to equitably distribute the benefits and burdens of such projects. Moreover, the framework for urban legal tools such as partial plans, urban action units, and land readjustment aim to reconfigure lots for development with a denser and more equitably distributed



Land readjustment is made participatory when the community is included. © UN-Habitat

settlement pattern. It can be said that the incorporation of the social and ecological function of property and the equitable distribution of benefits and burdens drive the process of implementing the social housing Macroprojects, and slum upgrading development case studies detailed in this book.

Moreover, the Constitution elaborates on this land ownership principle by distinguishing the right to develop property from the right to property ownership, with the former being granted separately by the state. This distinction further



enables the public function of property and the equitable distribution of benefits and burdens in urban development by allowing for development rights to compensate for other land management actions. As such, transferable development rights can be a very useful legal tool for implementing land value sharing to finance development plans, if the administrative procedure allows for it. However, it should be noted that while they are allowed by law, transferable development rights have not yet been implemented in Colombia.

The usefulness of many urban legal tools like transferable development rights must be supported by a clear and consolidated legal framework. Therefore, it can be said that despite the commendable effort for democratic and participatory urban development in Colombia, many of the land management, planning, and financial tools outlined in this book have encountered difficulties in implementation. The hierarchy of tools makes for an extremely complex procedure for public servant employees. Not only are the administrative procedures complicated and arduous, but they also require political will and public acceptance. Notably, the bulky nature of Colombian urban law hinders the practical application of an array of territorial development tools. This foray into Urban Law in Colombia may enlighten complexities that require reconfiguration of the legal system itself.



The area of the Medellín barrio of Córdoba known as La Candelaria. © UN-Habitat

# INTRODUCTION



## INTRODUCTION TO URBAN LAW IN COLOMBIA

The Colombian legal-urban framework is a robust and complex structure of tools that seek to meet land's "social and ecological function", defined by Colombia's 1991 Constitution. It has become a renowned example in Latin America, as it introduces many different principles and tools that other countries in the region had not implemented or utilized.

The strengthening of urban development and territorial planning as key elements in the overall development of Colombia has led to the creation of strong and renovated institutions, which seek to manage, coordinate, and control the new principles and tools for territorial development.

Territorial planning tools are the instruments introduced by Law 388 of 1997, the Law of Land Development, through which territorial development is fulfilled and each Municipality's land use plan is implemented, managed and made possible. The tools are made up of a combination of planning, financial and land management methods and mechanisms that work like elements included in a toolbox, used in different combinations to develop urban projects. They are closely related and organize the set of urban development procedures in a cascade form—each tool depends on a tool of superior hierarchy. Land readjustment, for example, is defined by urban action units, which are set and defined in partial plans. Partial plans are intermediate-scale planning tools that are defined and set by the city's general land use plan.

Such tools can be classified into three separate groups: planning, land management and financial tools. This book creates a general overview of the different tools that make up Colombia's territorial development toolbox, their history of implementation and the challenges of feasibility due to legal frameworks, institutional capacity, or geographic specifications.

Figure 1 – Population by Departments

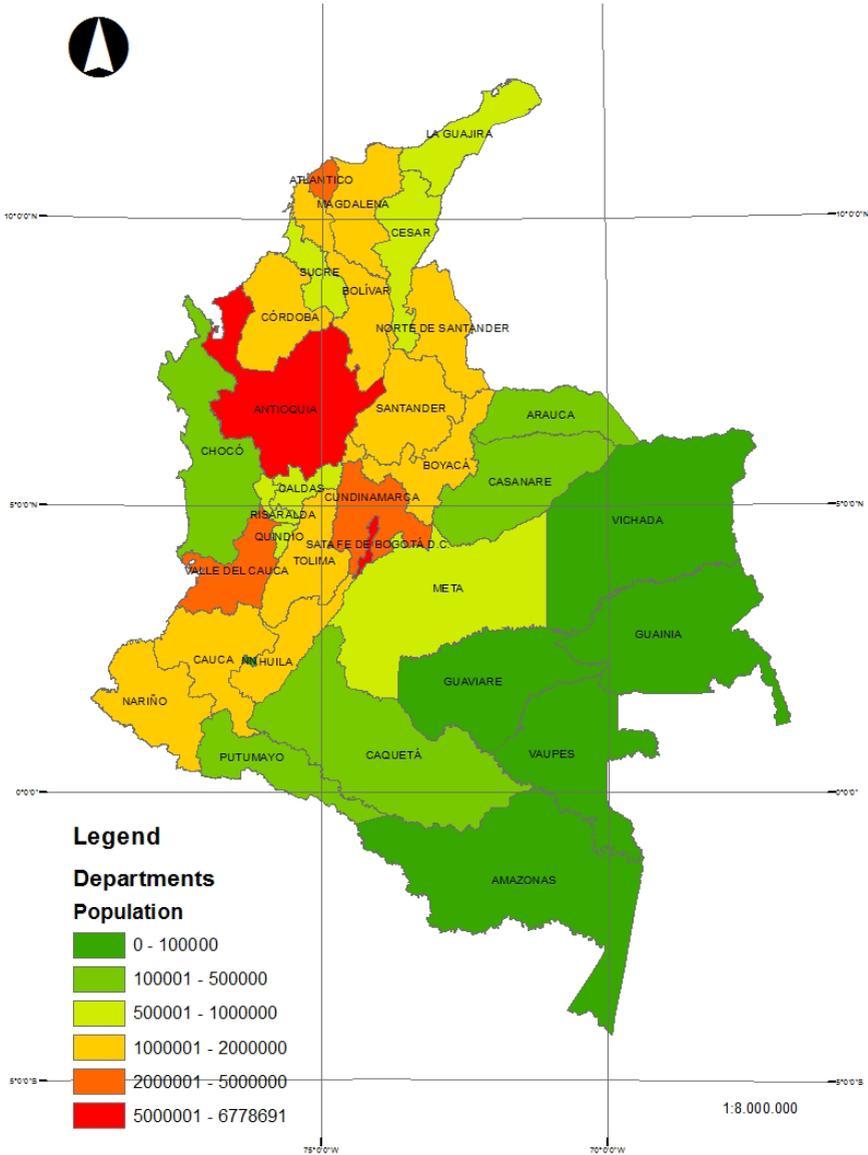
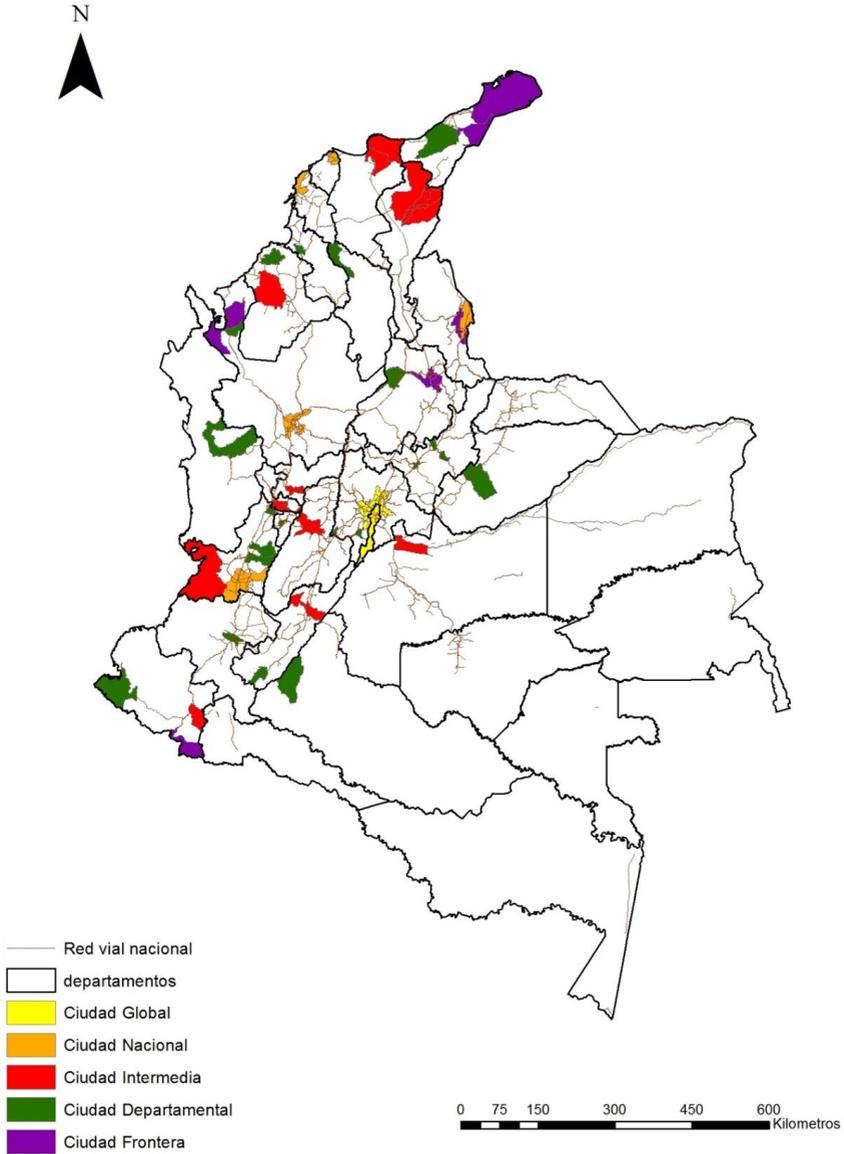


Figure 2 – Colombia's City System



The urban legal tools outlined in this book are illustrated by many case studies from Bogotá and Medellín, the two largest cities in Colombia by population, and the cities with the most developed planning regulations.

## URBAN DEMOGRAPHICS

Colombia is characterized for being the third-most populous country in Latin America, after Mexico and Brazil. The last official population census carried out in 2005 quoted Colombia with 42,888,594 inhabitants, of which 74.3% lived in urban settlements and 25.7% in rural areas. The National Statistics Department (Departamento Administrativo Nacional de Estadística - DANE) estimated a population of over 49,410,154 in 2017.

Colombia's City System is configured as a hierarchical system extended predominantly along the Los Andes mountain system and close to the Caribbean Sea and the Pacific Ocean coasts. According to the National Planning Department (DNP), 80% of the country's urban population is concentrated in this area.

**Table 1 – Colombia's Urban Population**

Population Range	# of Cities	Total Population 2005	Urban Population 20045	%	Average Population
More than 5 million	1	6,840,116	6,824,510	21,4%	6,824,510
Between 1 and 5 million	3	5,483,097	5,403,500	16,9%	1,801,167
Between 100,000 and 1 million	33	10,359,845	9,483,781	29,7%	287,387
Between 50,000 and 100,000 million	37	3,420,957	2,735,621	8,6%	73,936
Less than 50,000	1045	16,784,577	7,439,190	23,3%	7,119
Total	1119	42,888,592	31,886,602	100%	



This system is characterized by the primacy of the capital city, Bogotá, followed by 3 cities with a population of between 1 and 5 million inhabitants (Medellin, Cali and Barranquilla); 33 intermediate cities with populations of between 100,000 and 1 million inhabitants; and more than a thousand towns with less than 100 thousand inhabitants.

Movement from rural to urban areas was very high in the middle of the twentieth century, and has since maintained a steady growth. The urban population increased from 31% of the total population in 1938, to 57% in 1951 and about 70% by 1990. Currently the figure is about 77%. Thirty cities in Colombia have a population of 100,000 or more. The nine eastern lowlands departments, however, which constitute about 54% of Colombia's area, house less than 3% of the population, with a density of less than one person per square kilometer (two people per square mile).

According to DANE, throughout the inter-census period 1993-2005, the urban population of the Colombian cities increased from 23,299,000 to 31,886,000 inhabitants, equivalent to 37% growth over the whole period, which is 3.1% per year. In 1993, Bogotá, Medellin and Cali each had an urban population of over 1 million inhabitants, and by 2005, Barranquilla did as well. Together these 4 cities account for the greatest population growth in the past 15 years. Similarly, the number of cities with between 100,000 and 1 million inhabitants increased from 27 to 33, representing a 66% increase in population growth. Finally, the number of small urban centers with fewer than 100,000 inhabitants increased from 1,031 to 1,082, between 1993 and 2005, accounting for 29% of the urban population of the country.

## ENDNOTES

---

1. Source: Map elaborated by consultancy team using demographic and geographical information provided by the National Planning Department (DNP) and The National Statistics Department (DANE). Population data corresponds to last official census carried out by DANE in 2005.
2. Source: DANE, DNP
3. Source: DANE, DNP



# THE COLOMBIAN URBAN LEGAL SYSTEM



Colombia's urban legal framework is comprised of constitutional provisions and high level laws that impact urban planning principles. The Legal-Urban System in Colombia has been built over the course of the last 25 years as the result of a series of three separate National Acts: the 1989 Urban Reform Law, the 1991 Integral Reformation of the National Constitution (NC) and Act 388, the 1997 Territorial Development Law (in Spanish, the *Ley de Desarrollo Territorial - LDT*). This new legal-urban system was an important shift for Colombia's development model, as urban development, previously ignored, became a fundamental part of the agenda.

The most prominent change introduced through the new Legal-Urban System, was the implementation of what is known in Colombia as the "Plan-Action" System, introduced in 1997 by the Territorial Development Law but initially set up in 1989 in the Urban Reform Law. The main feature of this system is the collaborative participation of all city agents in the management and construction of the city. This collaborative model is supported in the 'rights and duties' principle under which land owners, real-estate agents, entrepreneurs and local administrations all are active city builders and have the right to develop and make use of the city, as part of the set of duties they must fulfill.

This change was one of the most decisive actions that Colombia has taken towards an urban transformation. Although it has not been long since this change was made, it has laid the basis for the construction of a new sense of collectivity and democracy. This chapter explains how this new sense of collectivity and democracy has been created and the set of principles on which it is built. The rest of the book details the urban planning tools, land management tools, and municipal financing tools which manifest this urban legal framework.

## I. 1989 URBAN REFORM ACT

Discussions regarding the need to introduce an Urban Reform Law date back to the early 1960s, when the first major housing and planning problems arose as a result of the general population growth and urban growth in Colombia. However, it was not until 1989, and after several failed attempts, that the urban reform proposal became an official Law (Law 9).

The Law sought to respond to the almost complete lack of urban land management in Colombia that had nourished a strong protection of landowners' interests and resulted in major social inequalities for people living in cities. Four of the most relevant problems that justified the Law were: major housing quality issues and their peripheral locations, long travel times for the working majority, negative impact on land with environmental value, and the appropriation of land value increases and rents by private actors.

The Law's guiding principles intended to ensure a more equitable distribution of socially created land-value, and to implement the principle of the social function of property. It was framed as an integral policy and economic and social planning approach based on: a reform of the use and tenancy of land and its tax regime, the inclusion of land for urban development and affordable housing projects, and the creation of municipal land banks.

Law 9 of the Urban Reform Act was the first important legislative effort to incorporate different planning, land management and finance tools. At that time, the State could only influence urban developments with the use of tools like expropriation (or eminent domain), taxes or tariffs. Most of the tools introduced by Law 9 have an international nature, which generated a somewhat incoherent system. The tools introduced by Law 9 were: a) the Japanese Land Readjustments; b) the French pre-emption right and land banks; c.) the American development (construction) rights transfer; d) the land-value capture tax; and e) the priority development declaration and the asset forfeiture method.

## II. 1991 NATIONAL CONSTITUTION

The 1991 National Constitution instituted several changes in Colombia's political, economic and environmental panorama. As part of the urban transformation that began with the introduction of Law 9, the 1991 Constitution introduced the solidarity principle and the 'collective rights' concept, under which the new notion of rights and duties was framed. The solidarity principle was made fundamental to citizenship, such that each individual must strive to uphold the needs of the general public. Secondly, 'collective rights' refers to each community's right to the environment, resources, and public space. This allowed further elaboration of the principle that public interest takes precedence over private interest, as well as the principle of the social function of property, adding a dimension of ecological or natural preservation.

In the 1991 Constitution, private property was recognized not only as representing a bundle of rights to landowners but also duties and obligations to the greater community, as the legal system guarantees the social and ecological function of private property and allows reconciling the rights of landowners with the needs of the community.

The correlative duties are imposed by the authorities through urban standards, which establish that any public administration can impose a set of guidelines to all land owners to ensure the rational and responsible development of cities and to guarantee the well-being of all citizens. This is usually framed in the relationship between public power and urbanism, understood as the power vested by the State to define land-use regimes in a specific territory, as well as: (i) how property rights are defined, for example when a specific area of the city must be developed under an association frame and (ii) the type of obligations—costs or duties—that must be assumed for this purpose.

### III. 1997 LAW 388 TERRITORIAL DEVELOPMENT LAW (LDT)

Law 388/1997, commonly known in Colombia as the Territorial Development Law (LDT), was enacted as a continuation of Law 9/1989 and sought to carry on with the goal of urban reform. It was introduced due to great national concern over the issue of territorial planning and its relationship with land management and the country's economic and social development goals. The principles introduced by Law 388 are the guiding principles of the Legal-Urban System framework and work with the planning, management and financial tools to make up the general structure of the system.

The LDT principles are a combination of two Constitutional principles (the social and ecological function of property and the prevalence of public over private interest) and two new principles added by the LDT (the public function of urbanism and the equitable distribution of benefits and burdens); principles that elaborate on the concept of rights and duties.

The LDT also introduced a "cascade" system for urban planning, inherited from the Spanish tradition as a result of a long-lasting relationship between both countries in territorial development and urban planning. The top of the 'cascade system' starts with the Land Use Plan (in Spanish, the *Plan de Ordenamiento Territorial - POT*) - the main planning tool for territorial development in Colombia introduced by the LDT - which establishes and defines planning and urban actions throughout the territory. The LDT also introduced other planning, land management and financial tools, by which the territorial development purpose is executed. This set of tools introduced by the LDT will be detailed throughout the book.

## IV. NATIONAL COMPLEMENTARY REGULATION (DECREE 1077 OF 2015)

The main Laws—9 of 1989 and 388 of 1997—have been extensively regulated by National complementary regulation since the year 2000. However, many of the complementary Decrees enacted from 2000-2014 have been compiled and replaced by the Decree 1077 of 2015, the “single regulatory decree of housing, city, and territory”. Because Decree 1077 is an extremely long document that is divided into books, parts, titles, chapters, and sections, the following tables serve to indicate where the laws on different themes can be found within the National complementary regulation. Table 1 details the themes found in the National Norms and the series of Decrees which complement them. The second table is an index which specifically details Book 2, Part 2 of Decree 1077 of 2015, which is titled the “regulatory regime of the housing, city and territory sector”.

**Table 1: National Complementary Regulation**

National Norms Regulated	Theme	Complementary Decree (2000-2014)	Place in Decree 1077 of 2015
Act 388 of 1997 Act 1450 of 1997 Act 1537 of 2012 Decree with force of Law 19 of 2012.	Regulation on land percentages used for Social Housing Programs in urban regeneration and development conditions.	Decree 0075 of 2013	Book 2, Part 2, Title 2, Chapter 1, Section 5
Act 388 of 1997 Act 9 of 1989 Act 675 of 2001 Act 810 of 2003 Act 812 de 2003	Regulation on urban licenses and local planning authorities’ functions. (Curadores urbanos)	Decree 1469 of 2010	Book 2, Part 2, Title 6, Chapter 1
Act 1083 of 2006	Regulation on urban standards for the construction of housing, public space and facilities when they are related with urban mobility systems.	Decree 798 of 2010	Book 2, Part 2, Title 3, Chapter 5, Section 2

National Norms Regulated	Theme	Complementary Decree (2000-2014)	Place in Decree 1077 of 2015
Modification of some articles of the Decree 3600 of 2007	Conditions for rural land development	Decree 4066 of 2008	Book 2, Part 2, Title 2, Chapter 2
Act 388 of 1997	Regulation on urbanization processes in urban and expansion land.	Decree 4065 of 2008	Book 2, Part 2, Title 2, Chapter 1, Section 4, Sub-Section 1
Act 388 of 1997	Regulation on planning determinants for parcellation processes and construction in rural land.	Decree 3600 of 2007	Book 2, Part 2, Title 2, Chapter 2
Act 388 of 1997	Regulation about plan partial's preparation and adoption.	Decree 2181 de 2006	Book 2, Part 2, Title 4, Chapter 1
Act 388 of 1997 Decree with force of Law 151 of 1998	Compensation in urban managing conditions for conservation and development rights transfer.	Decree 1337 of 2002	Book 2, Part 2, Title 5, Chapter 2

**Table 2: Index for Book 2, Part 2 of Decree 1077 of 2015**

Title 1: General Provisions		Section 1: Ordering of Territories	
		Section 2: Territorial Plans	
	Chapter 1: Territorial Planning Instruments	Section 3: Incorporation of Risk Management into POTs	
		Section 4: Urban Treatments	
		Section 5: Delegation of Land for VIS and VIP	
Title 2: Territorial Planning	Chapter 2: Territorial Planning of Rural Land	Section 1: Ordering of Rural Land	
		Section 2: Suburban Land	
		Section 3: Rural Village Centers	
		Section 4: Industrial Areas in Suburban Land	
		Section 5: Final Provisions	
	Chapter 1: General Provisions		
	Chapter 2: Public Space in POTs		
	Chapter 3: Management of Public Space		
	Title 3: Public Space and Urban Standards	Chapter 4: Accessiblity to the Physical Environment	Section 1: Accessibility in Spaces of Public Use
			Section 2: Accessibility in Public Buildings
Section 3: Accessibility in Parking			
Chapter 5: Urban Standards		Section 1: Urban Standards to Develop the Housing and Public Space Equipments Needed for Mobility Systems within the POTs.	
	Section 2: Minimum Conditions of Road Profiles within the Perimeter		

**Title 4: Instruments for the Planning and Management of Territorial Development**

**Chapter 1: Partial Plans**

Section 1: Formulation and Adoption of Partial Plans

Section 2: Consultation Stage

Section 3: Adoption Stage

Section 4: Contents of the Partial Plans for the Development Treatment Areas within the Urban Perimeter and The Expansion Areas

Section 5: Benefits and Burdens

Section 6: Urban Action Units for Partial Plans

Section 7: Varias

**Chapter 2: Macroproyectos de Interés Social Nacional (MISN)**

Section 1: First Generation MISN

Section 2: Second Generation MISN

**Chapter 3: Integral Projects of Urban Development**

Section 1: General Provisions

Section 2: Prefeasibility

Section 3: Announcement

Section 4: Formulation

**Chapter 1: Capital Gain Sharing**

**Chapter 2: Compensations**

**Chapter 3: Promotion, Announcement and / or Development of Real Estate Activities**

**Title 5: Financial Instruments and Mechanisms for the Management of Territorial Development**

**Chapter 4: Announcement of Programs, Projects and Works of Public Utility or Social Interest**

**Chapter 5: Concurrence of Third Parties in the Acquisition of Property through Voluntary Disposition and Administrative Expropriation**

Title 6: Implementa- tion and Control of Urban Development	Chapter 1: Urban Licenses	Section 1: Definitions and Classes of Urban Licenses
		Section 2: Procedures for the Issuance of Planning Licenses and Their Amendments
		Section 3: Other Related Actions for the Issuance of Licenses
		Section 4: Varias
	Chapter 2: Urban Licenses for Rural Land	
	Chapter 3: Urban Licenses After the Decla- ration of a Disaster or Public Calamity	
Chapter 4: Recognition of the Existence of Buildings	Section 1: General Provisions	
	Section 2: Procedure for Recognition	
Chapter 5: Legalization of Human Settle- ments	Section 1: Process of Legalization	
	Section 2: Processing of the Application for Legalization	
Chapter 6: Urban Curators	Section 1: General Provisions	
	Section 2: Designation of Urban Curators	
	Section 3: Merit Competition	
	Section 4: Redesignation of Urban Curators	
	Section 5: Administrative Situations	
	Section 6: Provision of Service	
	Section 7: Vigilance and Control	
	Section 8: Expenses for Urban Curators Appli- catoins	
	Section 9: Urban curatorial Supervision Com- missions	
Chapter 1: Sustainable Construction		
Title 7: Urbanization and Sustainable Construction		

## V. PRINCIPLES AND COMPONENTS

The urban and territorial planning process in Colombia involves public procedures that should be framed by legal principles. The series of national legislative Acts detailed throughout this chapter have created the principles and components, which govern Colombian urban law.

### a. Principles

#### 1. Urbanism as a Public Function

Article 3 of the Law 388 of 1998 establishes that urbanism is a practice that should be considered as a public function. The State represents the general interests of the public and should be the mediator between the public and private interests. Urbanism involves organizing the territory and turning planning into concrete actions through the use of standards, projects and other processes. Land use planners utilize urbanism to implement policy objectives and carry out the technical work that is required to ensure that urban development benefits all citizens. This is known as the 'public service' of urbanism in Colombia. Local authorities, which execute this function with the role determined by the Constitution, must pursue the following goals:

- Enabling access for the inhabitants to the public streets, infrastructures of transportation and other public spaces and guarantee the materialization of their constitutional rights of access to decent housing and public services.
- Answer to land use changes, adapting it for the sake of the common interest, encouraging its rational utilization in harmony with the social function of the property to which is it inherently an ecological function.
- Seek the improvement of the quality of life of the inhabitants, the fair distribution of the benefits and burdens and the preservation of the natural and cultural patrimony.

#### 2. The Social and Ecological Function of Property

Article 58 of the 1991 NC establishes that the property right (public and private premises) should first and foremost have a social and ecological function. Hence



the holders of this right have not only benefits but also duties before the rest of the society in respect to social goals and environmental restrictions. This constitutional article establishes that even though the law protects property rights, whenever their exercise is in conflict with general interest's regulations, the latter takes precedence over the property rights.

Among other actions that could be supported in this principle, the article mentioned refers specifically to expropriation. It has been considered also as an application of this principle, and according to Article 59, expropriation could be used against the principle of private property, without prior compensation, based on public utility or the cause for social interest, defined by law.

### **3. Equitable Distribution of Benefits and Burdens of Planning**

Law 388 of 1997 establishes in Article 38 that master plans (POT) and urban norms should determine mechanisms to guarantee the fair distribution of the burdens and benefits derived from the transformation of the territory, among individuals and public entities. In Colombia, the concept of an “equitable sharing of benefits and burdens” is interpreted to mean that some portion of the private wealth created by public actions should be shared with local governments. This principle of fairness implies that those who benefit from urban development should contribute some of the costs; the more one benefits from urban development, the more one pays.

This principle allows for and guides the process of land value sharing. According to Article 82 NC, public entities can participate in the land value increases generated by urban interventions. In the same way, Article 73 of Act 388 of 1997 established that city planning actions that regulate land use increases its value, therefore public entities are allowed to participate in the capital gains obtained as result of said actions. These resources should be used to boost the quality of urban development in the municipality. The local council oversees formulating the norms that enable the collection and use of the capital gains.

Moreover, private developers should be asked to share in the cost of improved public services when the increased demand for those services is a byproduct of the developers' investment decisions. Mechanisms to guarantee the equitable distribution included in Law 388 are, among others, the urban action units, building rights' compensation, land value sharing, betterment taxes, and urban land obligations. As obligations, burdens could be understood as duties that the owner



must undertake when starting an urbanization or construction process according to the determinations established by the urban norms of each municipality or district. The duties imposed might vary according to the territory conditions and could involve actions like free land transfers, allocation of portions of the territory for specific land uses or the construction of a specific kind of infrastructure.

**Benefits:** Income and profits generated by future real-estate activity.

Benefits correspond to income and rents derived from real-estate activity and are directly related to the construction area potential given to a specific area through urban standards and regulations. According to Decree 1077 of 2015, benefits are divided into two subcategories:

1. Basic Urban Benefits (Art. 2): Maximum construction area given to landowners of a PP area, assigned through specific land use in urban and expansion land. This is proportionate to the local costs assigned.
2. Additional Urban Benefits (Art. 2): Maximum construction area given to landowners above the basic benefits according to land-use defined by the PP, when they participate in general construction costs.

**Burdens:** The construction of infrastructure, parks and civic buildings.

Burdens correspond to all investment made for the development of public infrastructure in an urban project, such as public space, public buildings, streets and public utilities infrastructure. According to National Decree 1077 of 2015, costs are divided into two subcategories:

1. General Costs (Art. 28): Costs associated with the construction of arterial streets and main public services networks.
2. Local Costs (Art. 27): Costs associated with the construction of local infrastructure within the area of the corresponding PP. These costs are usually related to the construction of local vehicular and pedestrian streets, parks and green areas and secondary public services networks (water, sewerage, electricity, telephone).

#### **4. General Interests Take Precedent over Individual Interests**

Decisions made in the city and the actions that occur therein, by both governments and individuals, must benefit majorities and not a few. Article 1 of the Constitution of 1991 established general interest's primacy as a general principle that should be followed by the State and the citizens. Article 1 of Law 388 of 1997 establishes that this principle underpins all planning processes, as it paves the way to adopt regulations for general interest projects, beyond individual aspirations.

#### **5. Municipal Autonomy**

Both the 1991 Constitution and Law 388 consider that the municipality plays a definitive role at a local level, especially for territorial planning processes. The 1991 Constitution considers that the municipality is the main territorial entity in the political and territorial system. Then, among other duties, the city councils regulate the uses of the municipal territory (Art. 330 NC). Law 388, in Articles 5 and 8, emphasizes the municipality's role, establishing that land development processes are materialized in specific urban actions advanced by the local authorities.

## **b. Components**

According to different specialized literature, Colombia's Legal-Urban System can be divided into 4 different elements, listed below:

1. The set of faculties and relations between the different levels of Government, based on Colombia's territorial organization.
2. The scope and nature of the performance completed by the State in relation to any territorial and urban development process.
3. The land ownership regime, which is expressed by the definition of responsibilities and rights or powers of the various private actors (owners, developers, builders, investors) and the game rules for the mobilization of resources linked to urban processes.
4. The definition of planning, land managements and financial tools (as a set known as Territorial Ordinance Tools) and the conditions for execution and land management.

## VI. TERRITORIAL ORDINANCE ORGANIC LAW

After a great effort from previous governments, the Territorial Ordinance Organic Law (in Spanish, the *Ley Orgánica de Ordenamiento Territorial - LOOT*) was approved in 2011 by the National Congress, becoming the guide for Territorial Organization in Colombia. This law aims to create directions for the organization of Colombia's territory; to establish the guiding principles for territorial development, define the institutional framework, and complement the set of tools for territorial development. It also seeks to distribute the powers between the federal and regional authorities and establish general rules for territorial organization. The LOOT develops a simple territorial system that is easily understood as a general framework of criteria for further decentralization and territorial organization of the state. Among its most important features are:

- The Creation of Land Commissions that helps guide the general policy of the system and facilitates the task of territorial re-organization, serves as advisor to central, departmental and municipal levels.
- The possibility of association between local authorities under strategic alliances to promote development, competitiveness and economies of scale, that allow joint-provision public services, works of common interest and the meeting of planning functions to ensure the full development of their territories.
- The creation of a flexible scenario that promotes the bargaining of powers between central and local authorities. The proposed mechanism for this purpose is called 'plan agreements' or contracts that will promote the implementation of strategic projects associated with regional development between the federal and territorial associations.

## VII. LAND OWNERSHIP REGIME

According to Maldonado et. al (2006), the principle characteristics of Colombia's Urban-Legal System in regard to the land ownership regime are can be derived from the aforementioned principles and components:

- Property has a social and ecological function.

- Property is guaranteed as a right in the field of civic law or between individuals; while in the field of public law - where environmental and territorial development laws stand – it is conceived, exerted and guaranteed as a social function that involves obligations.
- While owners enjoy some rights or powers, they too, must comply with the urban and environmental obligations that correspond to such rights and that are derived from the social and ecological role of property.
- Urban actions and decisions taken using planning tools are binding in relation to the actions of both the Administration and individuals. This means that the territorial planning has legal force, which regulates and obliges public and private actors.
- Another important feature is that Colombian legislation contemplates specific obligations for landowners, like land contributions and infrastructure costs (streets, parks and recreational areas or social facilities), as well as land value increase return to society.

## VIII. ASSOCIATED LAND MANAGEMENT

The associated management of land is one of the defining elements of the Colombian Urban-Legal system. Associated management can be defined as joint development of a number of lots by their owners, under equitable conditions, that must fulfill urban obligations such as: land contributions for public use and infrastructure, green areas or civic building cost financing.

Associated land management is based on the equitable distribution of benefits and burdens principle mentioned earlier, becoming the mechanism through which cities overcome the lot-to-lot development that has resulted in an urban development with a public infrastructure deficit that increases urban exclusion.

According to the LDT, three different mechanisms may involve the associated management of land in their project development: Partial Plans, Urban Action Units and Land Readjustment. These relationships will be further explained in the following chapters. Associated management works as a tool for Partial Plans, Urban Action Units and Land Readjustment because it helps facilitate the consent of the landowners for the project to be approved.



The classification of lots under associated management mechanisms (defined in each Municipality by its POT) complicates the land ownership regime and development licensing procedures because lots which are radically different to adjacent lots must individually obtain a separate license to build or they must encourage adjoining lots to urbanize, so as to develop better urban projects.

## **IX. PUBLIC PRIVATE PARTNERSHIPS**

In 2012 the National Congress enacted a Public Private Partnerships (PPP) Law for the first time, as a mechanism to incentivize private participation in public infrastructure works.

The law is a breakthrough initiative, as it allows private organizations to plan and present a public infrastructure project to the State, without having to wait for the State to structure and open a public tender. The law does not intend to cancel out tenders; instead it wishes to open the door for private capital to have more room to work and develop projects. PPP projects may include both private and public resources, but public resources may not exceed 20% of the total costs of the project. In the case that it compromises public resources, although the project may be presented by a private company, it must be defined through public tender.

The PPP Law breaks a strong tradition of private infrastructure investment mainly targeted at transportation projects, allowing private companies to present and participate in urban development-type projects. PPP may only be presented in projects worth over six thousand minimum wages, equivalent to almost 3,500 million Colombian pesos (approximately USD 2,000,000). This restricts private initiatives to medium and large-scale projects. Although the Law clearly defines that public resources may not exceed 20% of total costs when paid directly with money, it allows municipalities to exceed such limits when resources are presented in another form, for example land.

Local governments are not allowed to sign PPP contracts within the last year of their political run, to guarantee that such are not used as political favors. The state will only pay out to the partnership when the project is completed and ready to be used, which guarantees that no public resources will be spent during the construction process and that public resources will be used as a control mechanism to ensure the proper development and construction of infrastructure.

## ENDNOTES

4. Source: (BID, 2011)
  5. Source: Maldonado (2004).
  6. Included in Colombia's national legislation since the constitutional reform of 1936.
  7. Source: Maldonado (2004).
  8. The entire Decree 1077 of 2015 can be found here on the website for the Ministry of Housing <http://www.minvivienda.gov.co/NormativaInstitucional/1077%20-%202015.pdf>
  9. Pinilla, J. F. (2012).
  10. Article 58 of the Constitution of 1991 established that expropriation could take place by judicial or administrative means. Article 58 of Act 388 of 1997 establishes some public utility causes that allow for using expropriation. Article 10 of Law 9ª of 1989, will remain thus: "For effects to decree its expropriation and besides the specific motives in other laws in force is declared of public utility or social interest the acquisition of real estate to destine them to the following end
    - a) Social infrastructure construction projects in the sectors of the health, education, recreation, head offices of supply and security citizen;
    - b) Social housing projects, including those of legalization of titles in urbanizations in fact or illegal different to them contemplated in the article 53 of the Law 9ª of 1989, the rehabilitation of tenancies and the resettlement of communities located in sectors of high risk;
    - c) Execution of programs and projects of urban regeneration and provision of urban public spaces;
    - d) Production, enlargement, provision and distribution of public services,
    - e) Execution of programs and projects of road infrastructure and of systems of massive transportation;
    - f) Adornment projects Execution, tourism and sports;
    - g) Operation of the administrative headquarters of the public companies, with exception of the commercial and industrial businesses of the State and those of the companies of mixed economy, whenever their locating and the consideration of public utility they be clearly you determined in the plans of code or in the instruments that they develop them;
    - h) Preservation of the natural and cultural patrimony of local, regional, and national interest, included the environmental, historic and architectural values
    - i) Delimitation of areas for the future expansion of the cities;
    - j) Delimitation of areas for the protection of the environment and the water resources;
    - k) Urbanization projects execution and of priority construction in the terms predicted in the plans of code, according with this law provisions;
    - l) Execution of urbanization projects, development and urban renewal through the action units modality, by means of the instruments to readjust of lands, integration real estate, cooperation or the other systems predicted in this law;
    - M) Resettlement populations by imminent physical risks."
11. In Book 2, Part 2, Title 4, Chapter 1
  12. In Book 2, Part 2, Title 4, Chapter 1
  13. The distribution and charge of these costs to landowners depends on the location of the PP and will be further explained later.
  14. Act 388 of 1997. Article 2o. "PRINCIPLES. The territorial planning process is supported in the following principles.
    1. The ecological and social function of the property.
    2. The prevalence of the general interest on the individual.
    3. The fair distribution of the loads and the benefits".
  15. Source: Maldonado et. Al. (2006).
  16. Source: Rodriguez, J.F. (2011).
  17. Source: Maldonado et. al (2006).
  18. This set of rights and duties defines the urban regime, configures the content and scope of the right of land ownership and concrete through the territorial ordinance tools, whereby the social function of urbanism takes place.
  19. Law 1508 of 2012



Land readjustment scheme in La Candelaria, Medellín analyzed the most appropriate land value sharing tools to use for financing the project. © UN-Habitat

# THE COLOMBIAN GOVERNMENT AND INSTITUTIONAL FRAMEWORK

In 1991, the political and economic model that had dominated Colombia for several decades took a dramatic shift. After almost 100 years, a new Constitution was enacted, instituting a new legal and political model and a Neo-Liberal economic model that opened the gates for Colombia's markets to enter the globalized economy. The new political model was characterized by the decentralization of local functions and resources, as part of a national strategy of governance and institutional reconstruction.

The 1991 Constitution foresaw the urgent need to establish a new territorial organization that responded to regional, geographical, environmental and cultural conditions, and not to a political logic that had generated a dramatic territorial division upon the enforcement of outlawed power.

Using the legal framework explained in chapter 1 as a background, the following section concentrates on the further elaboration of the Political-Administrative organization in Colombia and its relationship with urban planning and the set of planning tools that make up the Urban System in Colombia.

## I. POLITICAL-ADMINISTRATIVE ORGANIZATION FOR TERRITORIAL DEVELOPMENT

The 1991 National Constitution (NC) has defined Colombia as a welfare state and unitary republic organized through a decentralized structure, comprised of the following territorial entities: departments, districts, municipalities and indigenous territories. The country is divided into 32 departments and one capital district, which is treated as a department (Bogotá also serves as the capital of the department of Cundinamarca). Departments are subdivided into municipalities.

The administrative structure is rooted in the respect of the autonomy of those entities, but framed in the conditions established by the law approved by the Congress and the national complementary regulations enacted by the executive power. The



central government is responsible for the general territorial development policy; the Department for the elaboration of regional guidelines and for the guidance and consultation among municipalities; and the municipality for the formulation and adoption of their respective Land Use Plans (in Spanish, the *Plan de Ordenamiento Territorial – POT*) and the regulation of land uses.

Each department has a local government with a governor and a local assembly elected for a four-year term. Local governors manage their own resources and establish the necessary taxes to fulfill their functions. They participate in the distribution of national income.

Municipalities are the fundamental entity in Colombia's political-administrative division; they have political, fiscal and administrative autonomy. Their main role is the efficient provision of public services, construction work needed for local development, the organization of their territory, and the promotion of community participation and the social and cultural progress of their inhabitants. Each municipality has its own political organization. The mayor is elected through democratic elections (since 1988) for a four-year period and its main navigation tool is the Local Development Plan approved by the City Council. The City Council is elected through popular vote for four years and is in charge, among other things, of the regulation of land use. Its size varies according to the municipality's population. The judicial power is represented through the municipal courts.

The Municipal Development Plan is the road map that defines the municipalities' actions during a four-year period (this corresponds to the Local Government tenure) to reach the development results proposed by the mayor or the Governor in his/her government program. The plan defines objectives, goals, policies, programs and projects that will be developed during the four-year span and that must be included in the annual municipal budget. The plan is the result of a consultation process with the community, which is finally approved by the City Council.

The laws that make up the legal-urban system described earlier introduced a robust set of planning, land management and financial tools, but left a wide range of action for municipalities to define and organize their own territories through their own Land-Use Plan (in Spanish, the *Plan de Ordenamiento Territorial – POT*), making use of the public (municipal) function of urbanism. It is because of this autonomy that local processes are able to define and design the POT and the set of tools through which it is developed in each particular municipality. The proper



use and management of the different instances and the engagement of the actors involved in such – community participation, city administrations, city councils and environmental authorities – become fundamental for territorial planning and development objectives.

Taking this into consideration, although Colombia has become a regional example in the implementation of these tools and guiding principles, there is still, however, a lot to be done in order to guarantee that both public and private actors comprehend the scope and impact that these tools have and the rights and duties inherent to their activity in the city-building processes.

## II. DISTRIBUTION OF COMPETENCES

The Colombian planning system follows the territorial organization explained, and has distributed competences between the national level and the local authorities (departments and municipalities). The system concentrates at the municipality level the main decisions about urban planning and land uses. The municipalities are considered the main unit of the territorial organization, but their roam of action will be determined by parameters established at the national level.

Each entity has the right to be ruled by its own authorities, execute its competences and manage their own funds. For the case of the municipality Article 311 of the NC defined specific functions related to public services provision, construction of public works and definition of their own territorial conditions, among other local issues. The NC has also defined that the municipalities have to regulate land uses and control construction processes.

In this regard, three specific acts have been adopted, Law 9 of 1989, Law 388 of 1997 and Law 1454 of 2011. The first two Laws defined the basic concepts about territorial development, determining the urban actions that could take place in the territory and the instruments that could be used by the local authorities. Law 1454 of 2011 defines the distribution of competences between territorial entities following the territorial organization explained before.

Article 28 of Law 1454 establishes the following competences for the national government:

- Formulate the general territorial planning for national interest issues, especially Natural Parks Areas and Protected Areas.
- Localize important infrastructure projects.
- Define guidelines for the urbanization processes and cities system.
- Define guidelines and conditions to guarantee and accurate distribution of public services and social infrastructure among regions.

Hence the departments have the competences to:

- Establish guidelines for the planning of the whole department or parts of it, especially for those areas characterized by conurbation processes.
- Guide localization of social infrastructure seeking to promote equity for municipalities' progress.
- Adoption of territorial Departmental Master Plans in Departmental Master Plans in order to coordinate policies and strategies for the whole territory.

The Departmental Master Plans established by this law are supposed to bind each municipality's POT. However, there is not yet specific regulation on how they could be adopted and how their contents might guide the POT's formulation and probation. Furthermore, there has not been any Departmental Master Plan adopted so far.

Finally, for the municipalities Law 1454 has defined the following competences:

- Formulate and adopt their Master Plans.
- Regulate land uses in urban, rural and expansion areas following the law.
- Optimize the use of available land and coordinate sectionals plans with national and regional policies.

### III. NORMATIVE HIERARCHY

The distribution of competences determines the normative hierarchy between the law approved by the Congress, the national complementary regulation enacted by the national government and the Acts by local authorities.

The normative hierarchy basically defines the prevalence between norms, the jurisdiction where they are applicable and the scope of their regulations. According with the NC the law would prevail on the rest instruments, which means that the regulations must fulfil the law and restrict its contents to the parameters established there. In this same way, the laws would rule for all the country, as well as the national complementary regulation. However, the Acts approved by the local authorities will be applied only in the municipality where they were approved.

For the territorial planning system, the law defines general parameters that must be followed by the local authorities, and the instruments they could use to advance territorial planning processes. The national complementary regulations regulate those parameters and determine contents and uses for those instruments.

In this context, local authorities will apply both law and national regulations, to define standards for the urban process that could take in their territories, through the approbation of local acts and the adoption of the instruments established by law.

### IV. NATIONAL INSTITUTIONAL FRAMEWORK

#### a. Housing Administration

Housing policy in Colombia dates to the 1930s, when the first institutional mechanisms were implemented through the creation of different State institutions dedicated to the construction and management of housing projects. The governmental actions displayed through these institutions gradually diminished, as private action began to increase in the supply of housing with the application of measures that gave private organizations more opportunities to intervene. The decentralization process that began in Colombia in 1991 and the different urban and territorial policies written since, have once again transformed the housing



system by taking away the State's ability to intervene and by introducing a demand-subsidy system. Using different texts about the history and evolution of housing policies in Colombia as a reference, this section will focus on the last phase of this evolution, to contextualize the provision of land for social housing.

The period from 1991 to the present day began with an important break with the previous models of housing policy. With Law 3 of 1991, the policy of social housing changed from a model in which the State not only built houses but also granted credits and grants, to one in which policies focused on a demand-subsidy system based on international trends of the moment. This model provided the 'free market system' with enough power to control the production and marketing of affordable housing, turning state institutions into financing and regulatory bodies. With this perspective, the State created a demand subsidy system, active to date, directed at the most vulnerable population, which ensured a constant demand for social housing projects. This new policy and system sought to increase family purchasing power for housing, as the subsidies (in money or in kind) would complement credit and family savings.

This model does have several weaknesses however, especially as it failed to attend to the lowest-income families. Economic speculation triggered an increase in land prices and the model did not cover families with a low capacity to generate savings and pay off debts, resulting in the exclusion of this population. The Government responded with various programs and strategies to assist the lower-income population and strengthen the building sector, with the new land policy for social housing (implemented since 1997) and by expanding the range of access to affordable housing projects.

The national system of social housing was created in 1991, involving the institutions responsible for subsidy grants, the financial institutions offering credit for social housing and the private companies in charge of designing and building the projects, all as principal actors. The State body responsible for leading housing policy discussion was, until 2003, the Ministry of Economic Development, which was replaced by the Ministry of Environment, Housing and Territorial Development in 2003. This in turn was replaced by the Ministry of Housing, City and Territory (in Spanish, the *Ministerio de Vivienda, Ciudad y Territorio - MVCT*) in 2010, which is today responsible for housing construction and policy in Colombia.

For the purpose of this study, it is important to review some of the concepts introduced by Colombian legislation that have influenced actions in the Colombian housing arena.

- Law 9 of 1989 introduced the concept of ‘social housing’ (in Spanish, *Vivienda de Interés Social - VIS*) as the house with a maximum sale price, measured in minimum wages.
- Law 388 of 1997 redefined the ‘social housing’ concept as ‘those developed to guarantee the right to housing for lower income households’, giving each Presidential Government (through their National Development Plan) the possibility to regulate the dynamics of this market. Today, VIS is defined as ‘a housing solution with a maximum price of 135 minimum wages.
- Over the last Presidential periods, because VIS has not been able to guarantee access to proper housing solutions to lower-income households, the Central Government created another social housing concept known as ‘priority housing’ (in Spanish, *Vivienda de Interés Prioritario - VIP*) defined in Law 2190/2009 as: a housing solution with a maximum price of 70 minimum wages.

In conclusion, the current state of housing policy is one in which social housing has ceased to be organized, considered and designed from a quality point of view, to become a problem of figures, where deficit numbers must be met at any cost. The need to provide affordable housing to combat the growing housing deficit has led to an irrational use of available land and decreased the size and quality of housing.

### **i. Ministry of Housing (in Spanish, the *Ministerio de Vivienda Ciudad y Territorio*)**

The main goal of the Ministry of Housing, Cities and Territory (MVCT) is to formulate, adopt, direct, coordinate and implement public policy, plans and projects for territorial planning and territorial development, the consolidation of the system of cities, with efficient and sustainable land-use patterns, considering the conditions of access to housing, and provision of public water supply and basic sanitation services.



According to Law 4260/2007, the MVCT is the national entity responsible for the identification, determination, formulation and approval of the National Housing Macroprojects. As of 2012, 11 Macroprojects have been approved by the Ministry in 8 different departments. Macroprojects will be further explained in chapter 3.

## b. Land Administration

Within the scope of the new housing policy introduced in Colombia in 1991 that prioritizes the role of the market as developer of affordable housing, the State plays an essential role as regulator of the complementary markets for the production of housing, especially as the regulator of land for urbanization. Under this perspective, Colombia's land context changed dramatically with the introduction of the Territorial Development Law - enacted in 1997 – whose main objective was to regulate the supply of land for housing through the introduction of different planning and land management tools. The following is a brief contextualization of Colombia's land policy and its relationship with the provision of social housing in Colombia over the past years.

A strong demographic growth of Colombian cities and the introduction of a market-orientated housing policy have placed high pressure on land, resulting in a significant price increase over the last two decades and subsequently in a constantly growing market speculation. Because of this, the supply of affordable land for social housing development has suffered major decline, causing housing developers to seek reductions in housing production costs to be able to offer an affordable product to lower-income families.

Some studies have questioned the effectiveness of the tools introduced by the LDT, suggesting that they have had problems in meeting their purpose, since land scarcity and price surge have not stopped and instead the accessibility to formal land market for the urban poor is even more limited. This is particularly evident when analyzing the constant growth of informal settlements in most cities - through informal land markets - which has a similar weight compared to urban growth through formal markets. In 2006, two studies conducted by the *Contraloría General* (financial



government body) and the DNP mentioned some of these problems and added others that had not been addressed by the housing and land policies, which at that time were almost 15 and 10 years old respectively. Some of the problems mentioned have to do with the lack of control over land prices, the increase of housing deficit and collective facilities, the great difficulties for autonomous financing of urban development, and especially the lack of institutional development and technical capacity in the introduction of the tools contained in the LDT, combined with the lack of political will and understanding of local administrations regarding the different mechanisms available.

These issues have intensified the rupture between the actions carried out by the national government and those implemented by the local government. On the one hand, the national housing policy has concentrated on the use of mechanisms like demand subsidies for lower-income families, leaving aside its work as coordinator and articulator of large-scale projects, and on the other, local governments have set aside their responsibility in the effective provision and habilitation of land. Discussions between the national government, local governments and developers about the high land shortages have intensified following this and have generated strong questions about planning and land management tools provided by the law such as POTs and Partial Plans, especially the second one due to its lack of time effectiveness.

As a consequence to this problem during the last three presidential periods, the national government has undertaken a major effort in the introduction of national policies to combat this situation. Policies associated with the adjustment of the subsidy system as well as the creation of urban development policies, focused on urban renewal and the development of major transport projects, have occupied much of the national agenda. However, no action has had greater impact and significance in the panorama of land and housing in Colombia as the introduction in 2008 of the macro-projects. The macro-project is a national level planning and land management tool which seeks the direct participation of the nation in the provision and habilitation of land for affordable housing projects, in Departments with high levels of housing deficit and where local administration has not been able to tackle the problems of land management and habilitation. Chapter 3 provides a description and analysis of the impact of the macro-projects in Colombia.

## **ii. National Planning Department (in Spanish, Departamento Nacional de Planeación - DNP)**

The National Planning Department - DNP - is an administrative department that belongs to the Executive branch and reports directly to the Presidency of the Republic. It was founded in 1958 under an economic and social planning perspective and became known as the DNP in 1968.

The DNP is an eminently technical entity that promotes the implementation of a strategic vision in social, economic and environmental fields, through the design, orientation and evaluation of public policies, the management and allocation of public investment and the realization of plans, programs and projects of the Government. The DNP is responsible for the elaboration and evaluation of the National Development Plan, the tool for executing programs over their 4-year period.

Within the DNP, the Urban-Development Direction is responsible for the design, orientation, coordination, monitoring and evaluation of policies for urban development, housing, safe drinking water and basic sanitation. Its commitment and mission is to strengthen social infrastructure, as well as to carry out the management and planning of the urban centers of the country. It must work hand-in-hand with the Central Government in regard to the Cadastre system, as a basic support for urban development.

## **iii. Regional Autonomous Corporations (in Spanish, Corporación Autónoma Regional - CAR)**

The CAR is the first environmental authority at the regional level. They are corporate bodies of public character, composed of territorial entities that, by their characteristics, are geographically part of the same ecosystem or form a geopolitical, bio-geographical or hydro-geographical unit.

They have legal personality, administrative and financial autonomy, and within their jurisdiction area they are responsible for the environment and the natural resources, and must promote sustainable development in accordance with the legal provisions and policies of the Ministry of the Environment.



Law 99/1993 defined the National Environmental System and included the CAR as the environmental authorities between the Ministry of Environment and the Department and Municipalities. As of today, there are a total of 34 CARs in Colombia.

## c. Cadastre System

In 1983, through Act 14, the Colombian Congress created the national Cadastre as a planning tool for all municipalities in Colombia. According to Act 14, the Cadastre system is “the inventory or census, duly updated and classified, of real estate belonging to the State and individuals, and looks out for its correct physical, legal, fiscal and economic identification”. Its three main activities are: the creation, updating and conservation of the Cadastre.

From a public administration perspective, the Colombian Cadastre is both decentralized and *de-concentrated*. The Agustin Codazzi Geographic Institute (in Spanish, IGAC) is the national agency in charge of the national Cadastre across the Colombian territory and has local offices in different departments. Apart from the IGAC, only the three biggest cities in Colombia - Bogotá, Medellín and Cali - and one department – Antioquia – have separate Cadastre offices responsible for their own Cadastre.

IGAC was founded in 1935 under a different name, and was directly related to the Military. Over a span of almost 70 years, the IGAC was attached to the Ministry of Finance, and in 1999, was moved to be part of the National Department of Statistics (DANE). IGAC manages the Cadastre of a total of 972 municipalities, covering 1'075.979 square kilometers of the national territory, equivalent to a 94%.

Bogotá's Cadastre was founded in 1981, and until 2006 it was a direct dependency of the City Hall. Nowadays, under the City's organization structure, the Cadastre office is presented as a Special Administration Unit attached to the Secretary of Finance. This change has moved the Cadastre office to a more fiscal-type Cadastre than the city planning-type Cadastre it used to be.

Similar to the capital's city Cadastre, Medellín's Cadastre office is part of the



Secretary of Finance, but in this case it is not a Special Unit but one of 5 sub-secretaries. In the Governorate of Antioquia the Cadastre Office is included with the Information Systems office, alongside 4 other offices in the Administrative Planning Department. In Cali, the Cadastre office is also part of the Department of Finance, included within the Administrative Sub direction of Taxation, Income and Cadastre.

The differing location of the Cadastre in each city clearly shows that although IGAC controls most of the country's Cadastre system, there is not a clear national model. Each of the three cities that have a particular Cadastre office has given it a different position in the city's organization model, which clearly demonstrates a different approach to its responsibilities and functions. It is also worth noting the fact that none of the Cadastre offices has a direct relationship with the public administration's "first line", relegating its functions to secondary or tertiary levels.

According to the National Government, the Cadastre system must be financed by the different territorial entities. The IGAC is usually financed by the Regional Corporations, external credit, international cooperation credits, and the corresponding national budget. Each separate municipality can access Internal Credits through the Financial Project Development Fund (in Spanish, FONADE) so that IGAC creates and updates their own Cadastre. Bogotá, Medellín and Cali, all finance their Cadastre through their own public budget.

## V. LOCAL INSTITUTIONAL FRAMEWORK

### a. Municipal Territorial Planning Processes

The Municipality plays the main role in the Colombian planning system and is called on to lead the territorial progress in their jurisdiction. Thus the territorial planning processes are defined by the Act 388 of 1997 as follows: *"an assembly of political-administrative actions and of physical planning practices, undertaken by the municipalities or districts and metropolitan areas, in exercise of the public function, under the limits set by the Constitution and the laws, in order to arrange efficient instruments to orient the development of the territory under its jurisdiction and regulate the utilization, transformation and use of the space, according to the strategies of socioeconomic development and in harmony with the environment and the cultural and historic traditions"*.



In this sense the territorial planning processes involve administrative decisions and physical actions that must be contained in POT, which are mainly related to the following issues:

- Classifying the territory in rural, urban, protection and urban expansion land.
- Localizing and indicating the characteristics of the infrastructure needed for transportation, public services, disposition and processing of residues, and the construction of public amenities (hospitals, schools or airports), zoning the territory for commercial, residential or public activities. Defining specific uses, intensities, the free land transfers and occupation conditions.
- Determining free spaces for parks and public green areas, in adequate proportion to the collective needs.
- Determining the characteristics and dimensions of the urban action units (unidades de actuación urbanística)
- Directing and carrying out infrastructure works for the transportation public utilities and the public equipment, directly or in association with other entities or with private actors.
- Expropriating the lands whose acquisition is declared as of public use or social interest.

The following chapters outline the various planning, land management and financial instruments available to municipalities and other government institutions, which they use to carry out their territorial duties.

## **b. Local Planning Office**

In Colombia, the origins and functions of the planning department, secretary or office in each territorial entity (department, municipality or district) are intimately connected to the origins of the two most important Planning Instruments: the Local Development Plan, defined by Law 152/2004 and the Land Use Plan (POT). As part of its functions, the Secretary of Planning, as they are usually known, is responsible



for the elaboration and evaluation of both Plans, in coordination with the rest of the territorial secretaries. They are usually responsible for land use regulations, statistical elaboration and public expenditure planning and budget control, in coordination with the Secretary of Finance.

### **c. Local Environmental Authority**

Law 99/1993 defined the National Environmental System and included the responsibilities and functions of municipalities in environmental planning. Environmental offices are responsible for the promotion and execution of national, regional and sectorial environmental programs, as well as the surveillance and control of the National Environmental System. They formulate and regulate protection and environmental land-use regulations within each municipality in coordination with the POT, and are responsible for the protection and conservation of each municipality's ecological system, in coordination with the respective CARs.

### **d. Planning Advisory Council**

The Planning Advisory Council advises the municipal or district administration in the field of land management. It must be formed by the mayor of municipalities with populations of over thirty thousand (30,000) inhabitants. The Council must include administration officials and representatives of trade unions, professional, environmental, civic and community organizations related to urban development. The Planning Advisory Council was created by Law 388/97 and included it as part of the general process for the development of Partial Plans. This council follows up on the POT and proposes adjustments and reviews under the stipulated revision times.

## ENDNOTES

---

20. Source: (Torres C. A., 2004)
21. See Article 1 and 285 of the National Constitution
22. Source: Constitution 1991. Articles 311-313.
23. Source: National Planning Department
24. These actors will be further explained later in this section.
25. National government refers to the executive branch of the government that leads the country. Act 1454 does not determine specific authorities that would oversee these competences.
26. According to Act 1454 departments could adopt Departmental Master Plans, however no department has adopted one of these plans yet. However, departments, following Act 152 of 1994, might adopt Development Plans for every term in office. This Plan includes strategies and programmes that should be applied in all the municipalities.
27. Or Family Housing Subsidy (in Spanish, Subsidio Familiar de Vivienda – SFV). The SFV is the main tool introduced by Law 3/1991 and works as a complementary financing resource given by the State to families that guarantees their access to housing. The subsidy is additional to bank credit and savings, the two other requirements that families must have/receive in order to access social housing.
28. Each year the National Government establishes a minimum monthly wage (in Spanish, the Salario Mínimo Legal Mensual Vigente – smlmv). In 2012, the minimum wage equaled COP 567,000.00/ USD 315, which sets the VIS maximum price at approximately COP 76, 5 million pesos/ USD 42,000.
29. Source: Ministry of Housing Website.
30. Source Contraloría General (2006).
31. Source: DNP (2007).
32. Source: DNP Website
33. Source: CAR Website
34. Source: Pinzón, J. and Fonti, J (2007).
35. See Article 8 of Act 388/1997
36. Source: Act 388/1997



Connecting the street network with the surrounded neighbourhoods was a priority of Land Readjustment in La Candelaria, Medellín. © UN-Habitat

# URBAN PLANNING INSTRUMENTS

## I. LAND USE MASTER PLAN (POT)

The Land Use Master Plan (POT) (In Spanish, *Plan de Ordenamiento Territorial*) is the main tool, introduced by the LDT, by which the municipalities direct, manage and regulate the physical use of their territories. It is a mandatory planning tool for all municipalities in Colombia with a population over 100,000 inhabitants.

The POT defines guidelines for land development in urban, rural and expansion areas, and in natural protection areas. It is the basic tool to develop the territorial organization process of each municipality and is defined as the set of objectives, guidelines, policies, strategies, goals, programs, actions and standards approved to guide and manage the physical development of the territory and the appropriate and sustainable use of land. To do this, the POT designs and adopts tools and procedures for land management in order to execute all the actions that citizens and the public administration have in the territory.

The POT is divided into 4 different components: 1) General: corresponds to the long-term objectives, strategies, and structural contents. 2) Urban: corresponds to the policies, actions, programs, urban standards and planning and land management tools to develop and manage the physical urban development. 3) Rural: corresponds to the policies, actions, programs, standards and Planning and land management tools that guide and guarantee the proper interaction between the rural area and the rural settlements with the urban core. 4) Execution program: defines the mandatory actions set by the POT to be executed by the city mayor during their 4-year administration period.

The validity of these components corresponds to different time periods, directly related to the city mayor's administration periods: the general component has a validity of 3 mayoral periods (12 years), the medium and short-term urban and rural components have a validity of 2 mayoral periods (8 years) and the short-term



execution program components have a validity of one mayoral period (4 years). When the different terms come to an end, the POT must be revised. The LDT provides general guidelines for the elaboration of POTs and their contents, and grants autonomy to each municipality to decide on and elaborate the different types of urban standards.

The creation of the POT resulted in the introduction of a three-tool scheme for municipalities and districts in Colombia: 1) The POT as the medium and long-term (three mayoral periods – 12 years) territorial planning tool; 2) The Local Development Plan which sets policy guidelines, projects and commitments made by each Mayor to be developed over the course of his/her mandate (4 years); and 3) The Municipal Budget - the annual planning tool that controls municipal spending. So far, an appropriate linkage between Development Plans, Investment Plans and the POT execution plans has not been possible.

Act 388 defined different kind of urban norms (structural, general and complementary) regarding their contents and their scope of application, in such a way that the norms are related to each other. The land classification will determine the kind of uses allowed, as well as the urban management conditions and land use intensity.

Land classification and qualification form what is known in Colombia as the Urban Norms that define private actions on private land and their relationship with public land. It is this relationship that explains the interdependence of private and public action in the territory. These norms define the type of actions that can be developed on the territory and the type of planning, land management and financial tools that can be used.

**Table 1: Types of Urban Norms in Colombia**

<b>Structural</b>	Achieve general goals and support strategies included in the POT.	<ul style="list-style-type: none"> <li>▪ Land classification.</li> <li>▪ Urban managing conditions for historical preservation.</li> <li>▪ Delimitation of areas for basic infrastructure for public services.</li> <li>▪ Delimitation of free spaces for parks and green areas, and all dispositions related with public space in general terms.</li> <li>▪ Definition of urban actions units. Including the criterions, procedures and tools applicable.</li> <li>▪ Guidelines for the formulation of partial plans.</li> </ul>
<b>General</b>	Regulate uses, intensities, and urban guides. Establishes procedures for urban actions as: parcelling, urbanization, construction and incorporation of undeveloped land to urban perimeter.	<ul style="list-style-type: none"> <li>▪ The specifications of isolations, volumetries and heights for the processes of building.</li> <li>▪ The decision of the zones of renewal, jointly with the definition of priorities, procedures and intervention programs.</li> <li>▪ The characteristics of the secondary road network, and the location of collective equipment of public or social interest, free spaces at zonal or local scale.</li> <li>▪ The specifications of the secondary network public services.</li> <li>▪ The specifications of the free land transfers.</li> </ul>
<b>Complementary</b>	Related with the implementation of programs and projects included in the POT. These norms also regulate exceptional urban interventions, or those that need to be implement in short terms.	<ul style="list-style-type: none"> <li>▪ The statement and identification of the lands and real estate of development or priority construction.</li> <li>▪ The locating of lands whose use is that of social housing and resettlement purposes.</li> <li>▪ The specific urban standards formulated in partial plans for units of urban development action and for other operations.</li> </ul>



Hence this section has divided the POT into three types of general rules and more specific urban norms and managing conditions that define at least the following territorial issues:

- a. Land classification (urban, rural, and urban expansion)
- b. Land qualification (land use types and intensities)
- c. Urban management conditions to define the structural systems of the city (water, transportation, public space, public buildings)

## a. Land Classification

One of the most important objectives of the POT is the classification of land. Classification is related to what the POT establishes as the Structural Standards, which are the set of objectives, strategies and norms of superior hierarchy in the “cascade” structure. This implies that no norm below can be modified in contradiction to structural standards, and these may only be changed during the revision of the Plan.

### **Classification - Land Types**

One of the main features of the POT is the definition and classification of the different types of land that constitute a specific territory or municipality. Act 388 stipulates that all municipalities in Colombia must classify their land into three different types: Urban, Rural and Expansion Land. Other land types could include Protection or Conservation areas. Each one of these land types has its own urban regime that qualifies and regulates the public and private actions in the territory through two main tools: treatments and land use activities. Articles 30 to 32 of the Act 388 of 1997 defines each kind of land; they are classified in each category according to the land use they are intended for.

Land classification matters because whether an intervention takes place in urban or expansion land the land management mechanism may vary. For example, according to Decree 1077 of 2015:

- When the process takes place in expansion land it is always necessary to adopt a partial plan.
- When the process is going to be advanced in urban land the mechanism may vary:
  - A partial plan must be adopted through urban action units or others special urban operations when a joint land management is required
  - A development license is needed when the plots or plot has direct access to public services and fulfils one of these conditions:
    - The plots' size is not over 10 hectares and is part of a consolidated area or counts with development license.
    - The plots' size is over 10 hectares but they do not require associated management.

### **Classification - Treatments**

Treatments establish standards that define the specific use granted to a specific piece of land in urban, rural and expansion areas. Treatments are the tools through which land is organized and managed in order to fulfill the territorial vision determined by each city's POT. They determine the way in which a lot or building can be intervened, depending on its localization within the city. Fundamentally, treatments define the rights and duties that private and public actors have on a specific area of the city. No one area of land can have more than one urban treatment, in other words, treatments are mutually exclusive.

Although the LDT does not define a list of specific treatments, most cities have established the following five: development, consolidation, conservation, renovation and integral upgrading. Because there is no national law that defines these treatments, the study will use the definitions included in Bogotá's POT to further detail each type of treatment.

- Development: areas without urbanization and construction.
- Consolidation: urbanized and built areas where new buildings can be constructed using different types of interventions.
- Conservation: areas with buildings of high historical and cultural value that cannot be demolished.
- Renovation: deteriorated areas that can be fully demolished for their complete reconstruction.
- Neighborhood Upgrading: areas with deficiencies in infrastructure (streets, parks, public buildings, public services) and housing.

## b. Land Qualification - Land use types and intensities

Qualification is related to what the POT calls General Standards, which are norms directly related to and dependent on Structural Standards, which define the set of rights and duties given to landowners and developers, and the respective tools (planning, land management, and financial) to execute them.

Along with land classification, the POT defines two other very important elements key to urban development: land-use types and land-use intensity. The POT defines what type of activity (residential, commercial, industrial, services or civic) can take place in the different areas of the city and the level of intensity under which those activities can be developed.

National law does not delimit the kind of uses that could be defined by the municipalities. The definition of land use, rather, as established by Decree 2181 of 2006 and compiled in Decree 1077 of 2015, is the purpose of the land in terms of the activities that could take place in the land, as determined by the POT or other planning instruments. Those land uses could be categorized as principal, compatible, complementary, restricted and prohibited. In the case that a use is not included in any of those categories, it should be understood as prohibited.



The land use intensity conditions (índices de construcción y desarrollo y normas de construcción) are also a component of the urban norms that refers to the specifications for the development processes in an area, in accordance with the development allocation system (reparto de cargas y beneficios) established in the POT. These standards govern the physical conformation of plots and buildings and the benefits that could be obtained as a result of the interventions in the territory. The rules to obtain those benefits are included in the POT or in other instruments adopted (partial plans) and would define the following land use intensity conditions:

- Development index (índice de ocupación): defined by Decree 1077 of 2015 as the proportion of the area that could be occupied by a building in the first floor. Therefore, the index is the result of the division of the height into the total area of the plot.
- Construction index (índice de construcción): this index is the maximal times in which the plot's surface could become a built area. The index is the result of the division of the authorized building area in the total area of the plot.
- Construction rules: these kinds of rules refer to the distance between buildings, volumetric and heights authorized.

In this way, the POT adopted by each municipality will classify the territory determining different areas under urban managing conditions, that will determine too the kind of land use intensity conditions. However, there are not specific land use intensity parameters for each kind of treatment, which means that in each municipality, areas under the same urban managing conditions share the same land use intensity rules.

### c. Urban Managing Conditions

As noted throughout the description of land classification and qualification, the urban managing conditions outlined in the national complementary regulations and the POT govern the physical conformation of plots and buildings and the benefits that could be obtained as a result of urban actions, treatments and interventions in the territory.



Urbanization processes can only take place in the areas which adhere to the urban managing conditions. The national complementary regulation has defined specific contents and some conditions about treatments that can be accomplished by municipalities, which determines how the urbanization process can take place. This is not the case for the rest of the urban managing conditions, where some general concepts have been formulated in the national complementary regulation, but the municipalities have defined the specific contents.

Therefore, according to Decree 1077 of 2015, the POT must define at least the following standards:

- Land uses
- Minimal areas for megablocks, blocks, super-plots and plots.
- Volumetric norms
- Building and development index
- Distance between buildings
- Entrance garden (antepatio)
- Setbacks
- Garages
- Ramps
- Stairs
- Parking lots
- Free transfers

Urban construction treatments (tratamientos urbanísticos) are POT'S decisions that define a specific way of management for different sectors in the urban land of the city, as per their physical characteristics. Decree 1077 of 2015 indicates that it is possible to define managing conditions for the following processes: urban regeneration, development, conservation, consolidation, and upgrading.

1. Urban managing conditions for urban regeneration: These conditions have not been defined but the Ministry of City, Housing and Territory, considers that they must include provisions related to:

- Allocation of uses and densities,
- Urban standards,
- Block's minimal area and instructions for the planning instrument's application.

- 
2. Urban managing conditions for development: These conditions are included in the urban component of the POT and regulate the urbanization of plots suitable that have not been developed yet, localized in urban or urban expansion land. These conditions must define land uses, deciding which are complementary, restrictive and forbidden. These rules also determine minimal area for blocks (manzanas), big blocks (supermanzanas) and plots.
  3. Urban managing conditions for conservation: Decree 151 of 1998 (Articles 2 and 3), established that these conditions are applicable for those areas where historical, ecological or architectural reasons limit the physical transformation of areas, private plots, public works and public space elements. The application of these conditions constrains property rights, so these limitations must be compensated using the development rights transfer.
  4. Urban managing conditions for consolidation: There is not a definition of this treatment in Act 388 or in the national complementary regulation. However, these kinds of conditions are applied to areas that are already “consolidated,” which means that they are already urbanized and developed. As an example, one can take the definition included in Bogotá’s POT: “Urban managing conditions for consolidation regulate the transformation processes of urban structures of the developed city, seeking to keep the coherence between the land use intensity and the existing and future public space system.”
  5. Urban managing conditions for upgrading: These conditions support the process of legalization, as per Decree 1077 of 2015. The urban managing conditions for upgrading of the area must follow the provisions included in the POT, especially those that define the areas for the construction of road network and public services, delimitation of conservation areas, risk areas, land classification, land uses and upgrading programs.

The law has not restricted the definition of other urban managing conditions or the combination of some of them, so municipalities decide on the management conditions that they would like to demarcate for their territories.

## II. INTERMEDIATE PLANNING TOOLS: PARTIAL PLANS, MACROPROJECTS, AND NEIGHBORHOOD BETTERMENT PROGRAMS

The classification and qualification of land defined by the POT establishes the areas for the application of intermediate-scale planning tools that help organize and plan different projects in the city's territory. These plans and projects work as planning tools for specific areas or specific topics that are not developed fully by the POT. They complement and develop the objectives, strategies and guidelines defined by the POT, determine public works projects, define rules to guide private investment and real estate transactions to ensure that they benefit the entire city. Intermediate Planning Tools are the vehicles through which the classification and qualification of land and its relationship to the general model of the city are manifested. These tools are correlated to land types (rural, urban, expansion) and to treatments. The Intermediate Planning tools outlined in this section are Partial Plans, Macroprojects, and Neighborhood Betterment Programs.

### a. Partial Plans

Partial Plans (PPs) are an intermediate planning instrument that articulates planning, with land management and financial instruments, and forms the basis for an associated management of land and the definition of specific financing mechanisms for urban projects (especially for urbanization) supported in the capture of increases in land value. According with Article 19 of the Act 388, Partial Plans are instruments used to complement and implement the POT, for determined areas in urban and expansion land. PPs define the different actions that must be taken from a planning, design, financial and land management perspective.

PPs also include urban decisions that would specify POT provisions and determine rules and mechanisms for different areas of the city such as:

- Delimitation and characterization of the area under urban intervention.
- Definition of development goals for the area including building standards, public space conditions, and upgrading or regeneration programs.

- Formulation of urban norms that define land uses, building index, buildability rules, distances between constructions, etc.
- Description of other instruments for urban planning, collection of capital gains and distribution of benefits and burdens.

Partial Plans create the same ground rules and a single scheme of management development of significant areas of land. The purpose of this is to facilitate the execution of integrated urban development actions capable of absorbing the costs of the provision of equipment and infrastructure needed to generate a good quality of urban life.

Partial Plans define, within their area, urban norms that guarantee an 'orderly' development and the distribution of space in a fair and equitable way. They also seek to guarantee access to a good and healthy quality of life for all citizens and to guarantee an equitable distribution of benefits and burdens in any urban development. PPs fundamentally integrate two components, public spaces and private spaces, in order to create the proper conditions for citizens.

In order to achieve this, PPs detail guidelines for: land use, voluntary and construction typologies, public utilities infrastructure, streets, parking, public buildings and public space.

It is mandatory to use PPs when: 1) expansion areas will be incorporated to the urban core; 2) areas in urban land are under development treatment; and 3) areas are designated to be developed using UAU or Macroprojects. PPs are developed in expansion areas, renovation areas and undeveloped areas within the urban core.

PPs can be developed through public initiative, private or mixed, exemplifying how PPs can be motivated as a response to collective interest or as a response to real-estate dynamics. Citizens or private entities can propose partial plans following the POT provisions, to be approved by the local planning authorities. Law 388 not only defines the areas where PPs can take place, but also defines the procedures for its approval. The following policy description will cover the legal framework of PPs in Colombia after Law 388 was enacted. The description is divided in two: a national legal framework that describes the general outline defined by the Nation to regulate PPs and examples of how municipalities like Bogotá and Medellín have developed their own local regulations for PPs. The development of regulations



at both the national and municipal level has sometimes been contradictory and has generated debates with interesting and arduous discussions on municipal and regional autonomy.

### **Partial Plans National Legal Framework**

The method of utilizing Partial Plans (PPs) has been formulated through National complementary regulations and was recently compiled into Decree 1077 of 2015. Firstly, in the year 2006, the National Government issued a decree to establish guidelines for the development of Partial Plans through Law 2181. In general terms, this Act: established the procedures and defined the roles of actors within Partial Plan developments. It was also obligated to destine a percentage of the total project area to social housing.

This decree was then reformed by National Law 4300/2007, which further regulated PP procedure for urban and expansion areas. It changed the minimum requirements for the formulation of a PP and indicated the obligation for interagency coordination in the process.

Because of some of the elements and problems that make PP implementation inefficient, the National Government issued Decree 019 in 2012, known as the Anti-Processes Act, to make adjustments to the PP implementation processes.

Bogotá has elaborated in particular legislation for Development-type PPs, further complementing the National laws that regulate them and has also stipulated the Partial Plan as a mandatory planning tool to develop areas under renovation treatment. Medellín, on the other hand, establishes PPs as mandatory planning tools for the development of areas under: neighborhood upgrading, renovation, redevelopment, development and conservation treatments, varying only in size requirements.

## Partial Plans Local Legal Framework

### **Bogotá**

Bogotá has been the most active city in the development of local regulations related to Partial Plans. Bogotá issued such regulations on the 29<sup>th</sup> of December of 2000, through Decree 1141, which included:

- The definition of the Partial Plan provided in Law 388 of 1997.
- The definition of the areas of the city where PPs will be need and approved; these areas correspond to specific areas of the city stipulated by the POT through the qualification processes using Treatments as tools. Such areas correspond to:
  - Sectors with “development treatment” in urban areas and urban expansion areas in accordance with Article 351 of the Decree 619 of 2000
  - Sectors of “urban renovation treatment” in redevelopment mode

The law has defined three types of initiatives: Private, Public-Private and Public. It gave special mention to public initiative and therefore strictly defined the public authorities that had legal jurisdiction to intervene, generate and promote urban development in the city. These authorities are: Metrovivienda, the city’s land bank and real-estate company and the urban renovation company in charge of promoting urban actions in urban areas under “urban renovation” treatment defined by the POT.

Other local regulations in Bogotá include:

### **Act 327/ 2004 – Urban Development Treatment**

This local decree develops and complements general norms established previously by Act 388 and by the POT of Bogotá in regard to several subjects regarding Development Treatment. For the purpose of this study, it is worth noticing three different aspects of this Act:

- It establishes that all areas with a Net Urbanized Area (NUA) over 10 Ha and all areas classified under Expansion Land must be developed through a PPs. Lots with NUA below 10 Ha located in Urban Land can be developed directly using



an Urbanism License. This liberated almost 1,500 Ha of atomized areas across the city that had to be developed through PPs.

- This decree regulates the mandatory inclusion of Social Housing in all areas under Development Treatment. The Decree established that specific minimum percentages of the final area must be dedicated to social housing (both VIS and VIP) depending on its location in the city. This article, however, was replaced by Decree 138 of 2015, which was then replaced by Decree 623 of 2016. The mandate for Social Housing can either be accomplished within the same PP area or transferred to other projects with specific land price characteristics.
- This regulation further elaborates on the Design Standards for public and private land. It specifically established the construction and occupation indexes in private land and the percentage of NUA for cessions for parks and public space.

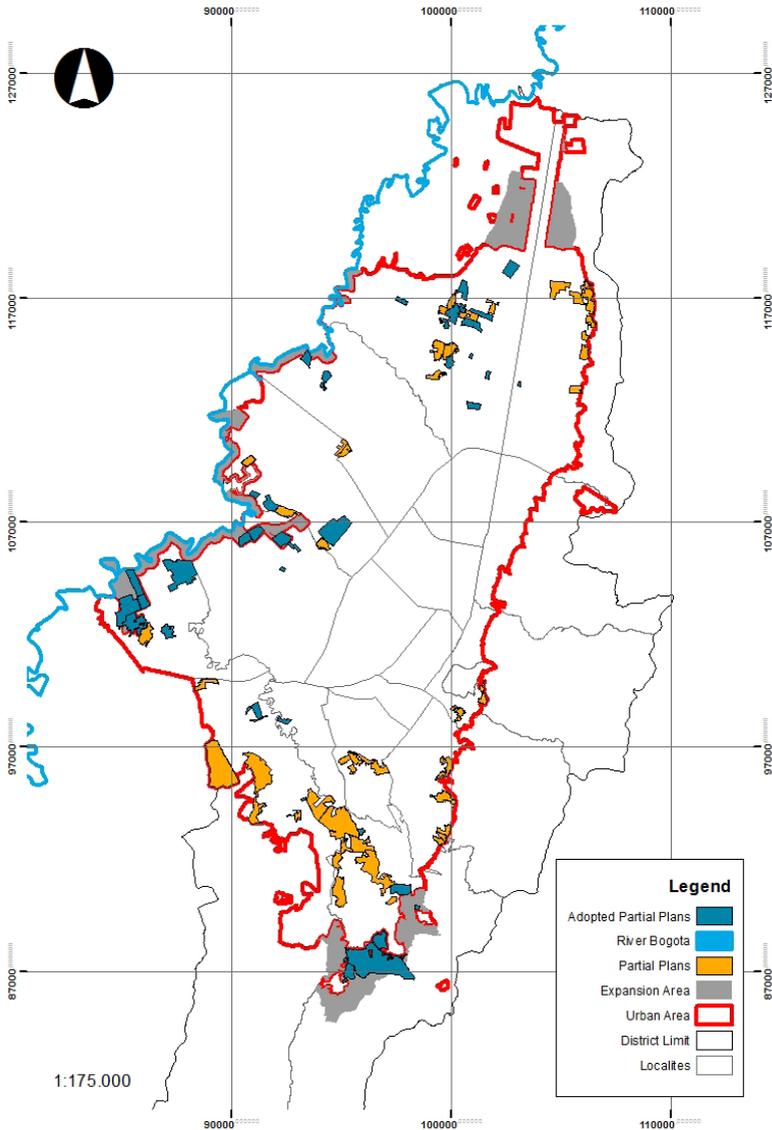
### Act 436/2006 – Regulation of PPs in Development UT

This local decree established regulations for Partial Plans in the Development Treatment areas, and further elaborated on the Distribution System applicable for these. It complemented the regulations established by Law 327/ 2004 and by Bogotá's POT and created a stable legal framework for urban projects in development areas.

It provides a clear methodology to determine the Plot Ratio in PPs, in relation to the equitable distribution of benefits and burdens and certain urban standards. It promotes an efficient and rational use of land in order to reduce the pressures of expansion and sub-urbanization of the city.

Bogotá has been the most active city in the implementation of PPs in Colombia. Since 2002, when the first PPs was approved, Bogotá has registered almost 90 different PPs projects with almost 50% (40) of those already approved. The city has concentrated on the implementation of PPs under development treatment and has long struggled in applying the tool for urban renovation projects.

Figure 1 – Approved PPs in Bogotá as of 2012



## Medellin

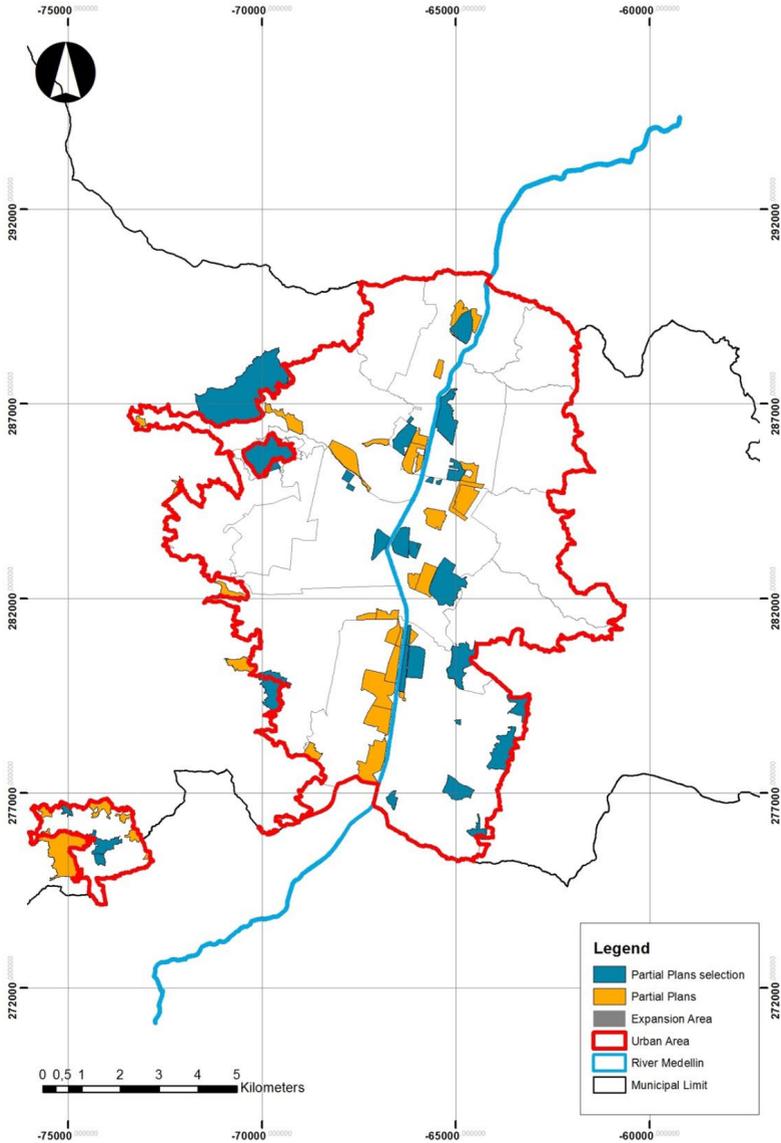
Medellin's local legal framework is based on three different Municipal Laws, developed since 1999. In that year, the city council approved a POT, which has since been revised, most recently through the Agreement 48 of 2014. The POT includes the basic framework for the development of PPs in Medellin, and all the urban norms that support their actions. According to the POT, PPs in Medellin must be developed in expansion land, or in urban land categorized under development, redevelopment, renovation or consolidation treatment. The POT defines and delimits different areas of the city and assigns different treatments to it. These areas in Medellin are known as polygons. Partial Plans vary in size depending on the size of each polygon. The POT further elaborates on the set of benefits assigned to each urban treatment and the system of distribution for benefits and burdens under PPs.

Later, in 2006, the city revised the POT for the first time and included some modifications with regard to PPs. In the meantime, in the year 2000, Decree 1212 was enacted, detailing actions and dispositions for the development of PPs in Medellin. The latest adjustment to the regulation of PPs, and in general to the management of urbanization in Medellin, was enacted in 2007 through Decree 409.

The POT establishes regulations for the development of affordable housing (VIS – VIP) projects in relation to the different urban treatments described above. The latest revision of the POT stipulates the percentages of the total area (in different land classifications) which must be dedicated to affordable housing.

Though it has a smaller population and urban area, Medellin has been almost as active as Bogotá in the approval and development of Partial Plans. Medellin was the first city to approve a PP in 2000, and from 2000-2012 the city approved a total of 31 PPs that account for 930 Ha. The city has approved a diverse set of PPs, ranging from development plans in expansion areas to renovation and redevelopment PPs within the urban core. The city has transformed important areas of the city through the use of PPs, developing public space projects and real-estate developments.

Figure 2 – Approved PPs in Medellín as of 2012



# 1. Case Study: PP Tres Quebradas of Usme Zonal Plan, Bogotá

PP Tres Quebradas is part of Zonal Plan Usme: a strategic plan for Bogotá located towards the southern border of the city, one of Bogotá's main expansion areas. The project has been planned, managed and developed since 2003 by Metrovivienda, the city land bank, and up to 2014, several land management activities have been proposed; however, the project has not yet initiated any developments or construction. The following is a general overview of the project, highlighting the most relevant information based on a document published by Metrovivienda in 2011.

## General Characteristics

Tres Quebradas is one of several PPs located within Usme's Zonal Plan, whose main objective is to plan and develop a coherent growth strategy for Bogotá's southern expansion area. It aims to anticipate informal urbanization and generate an orderly urban area for social and priority housing solutions that can host and attend part of the city's housing deficit. A second challenge for Tres Quebradas (and for Usme Zonal Plan), was the elaboration of plan for such a large extension of area located in a territory with a delicate and vast ecological structure and with a very difficult topography.

The project has a total area of 311 Ha, with land use distribution between residential (58%) and commercial, industrial and services activities (42%). The project's main strategy is to create a very diverse land use strategy that could offer all sets of urban and economic services for new inhabitants, served by transportation connections to the rest of the city, especially through the BRT system. The project also has a very important regional purpose, as it intends to become a Regional Centrality along Autopista al Llano, with the creation of a major Industrial and Transportation Park that connects commercial and agriculture activities coming from the eastern region of the country, with Bogotá.

Another very important strategy was the design of a public space system composed of parks, alamedas and lineal parks that could serve as protection for the natural systems and that could integrate with bike lanes and civic buildings nodes, thus creating a pedestrian-type environment. Building Nodes are conformed by different social services like schools, kindergartens, health centers, cultural and sports spaces.

The following table illustrates in detail the projects areas:

**Table 4 – Tres Quebradas Project Areas**

Areas	Area (Ha)	%
<b>Total Gross Area</b>	311	100
<b>General Urbanization</b>	75.1	24
<b>Net Urbanized Area</b>	235.9	76
<b>Local Streets</b>	33.6	14.2
<b>Parks</b>	38.4	16.3
<b>Public Buildings</b>	18.2	7.7
<b>Other Public Cessions</b>	12.8	5.4
<b>Final Area</b>	135.7	43.6

As mentioned previously, the final area is distributed between residential, commercial, industrial and services, with the different variations of residential activities accounting for almost 60% of such area, with multi-familiar solutions are prioritized (78%) over uni-familiar solutions (22%).

### Land and Social Management Impact

The PP is made up of 282 different lots, of which 50% is owned by no more than 5% of non-resident owners. Among the other 50%, 30 lots were identified as areas owned by local farmers, who are set to be relocated within the Zonal Plan Area and continue with their agriculture and economic activities.

In terms of land management, the strategy that was used to enable the creation of public land and to finance infrastructure works was what has been explained as and is known as the associated management between landowners. Because there was



not voluntary disposition of many landowners, UAU were not able to be created and instead, 9 Management Units (in Spanish, *UG*) were created, divided into 4 development phases over a 10-year development period.

The first tool used was the “Project Announcement”, introduced in 2003, which ordered the use of reference appraisals to determine the initial land value according to its rural characteristics. In 2008 and 2009, the city presented decrees that established that the area presented urgent conditions because of public utility reasons, which enabled the use of the “expropriation-through-administrative-channels” tool. In 2008, the preference right was declared in favor of Metrovivienda.

Using this as a basis for negotiations with landowners, the project developed two different strategies:

1. Associated management offers to landowners, establishing the land input and payment conditions through a volunteer transfer or becoming partners in the project until its finalization.
2. Expropriation through administrative channels for reluctant landowners.

The use of these tools and the establishment of a clear set of land management strategies has allowed Metrovivienda to acquire land in Usme at \$12,000/square meters (USD 6 /square meters), the lowest price in its short history. As of 2011, works for the acquisition of land for the first phase and other areas are well advanced.

With regard to the social impacts and their management, Metrovivienda has been the entity in charge of the project, and has provided consultancy and support services to inhabitants of the Zonal Plan. The construction of an Information Centre in Usme has provided an adequate space to provide support, focused on the communication and disclosure of relevant information to owners and residents, together with the use of surveys and home visits in order to monitor the socioeconomic information of owners.

## Impacts and Lessons Learned

PP Tres Quebradas and Zonal Plan Usme are well known in Colombia because of their achievements on the land management front. The implementation of several of the tools included in the LDT allowed the management and development of land for social and priority housing at very low prices, setting a very important precedent for public land management.

From a Planning perspective, the project has achieved important landmarks for the city, in both positive and negative ways. Positive, because the project's announcement made in 2003 became a control system to battle urban informality and severe land speculations.

Negative, because since 2000, when Bogotá elaborated its first POT, Usme was declared as the southern expansion area of the city. However, since then, the different city administrations have had different positions on its development and management, turning the project into a very volatile political vehicle. The lack of a unified and settled city model in Bogotá has resulted in a dramatic instability of its planning and territorial organization, and Usme has become the queen's crown on that front.

The design and management of the project demonstrated the importance of having flexible design standards that can attend the specific needs of an area of the city, as the project increases many of the city standards in terms of public space, and public buildings per inhabitant. The mixed-use strategy proposed is a very important lesson to be learned for future developments. The inclusion of non-residential uses will guarantee that new population will have access to most urban services at short and medium distances, promoting a more sustainable transportation model.

## b. Urban Macroprojects

The concept of National Macroprojects was first introduced by Act 388 of 1997, understood as a group of technical actions to execute large-scale urban interventions that could generate effects in the city infrastructure. As large-scale urban interventions, these kinds of projects usually take place in areas that are under managing conditions for development and for regeneration. Macroproject legislation developed throughout the last 20 years, and is now regulated by Decree 1077 of 2015.



To give a brief history of the development of Macroproject legislation, in 2007 the National Government initiated the Macroprojects program called Social Interest Macroprojects (*Macroproyectos de Interés Social Nacional*) by passing Decree 4260 of 2007. According to this National Law, National Macroprojects are the set of administrative decisions and planning actions taken by the National Government in which planning, finance and land management tools are linked to develop large-scale urban operations that contribute to the territorial development of municipalities, districts, metropolitan areas or regions of the country, with special emphasis on social and priority housing.

Decree 4260 / 2007 outlined a broad framework for Government support to large-scale, low-income land and housing development. It does so by first enabling the national government through the Ministry of Environment, Housing and Territorial Development (MAVDT) to supersede municipal land use planning authority in the development of social interest housing projects that provide housing solutions for at least 1% of the number of households in associated primary cities. This provision enabled MAVDT to utilize mechanisms for land use planning specific to these projects superior to the POT instrument and associated approvals process. Second, the Decree enabled MAVDT to identify large lots of land across multiple municipal jurisdictions and effectively apply a common land-use planning regime to these projects. Third, the Decree provides MAVDT with the authority to involuntarily acquire land from private landholders as a last resort, based on independent market valuations and after other voluntary means to associate have been exhausted. Absent from the Decree – and the subject of ongoing technical work led by the Ministry – are details regarding a wide range of more specific ‘game rules’ for the program.

The first phase of the Program was implemented within the framework of Decree 4260 but in March 2010, the Colombian Constitutional Court issued a ruling that found that the legal framework for the Program unduly infringed upon municipal autonomy for land-use planning. The Court ruling strongly supported the Program’s objective of creating access to affordable housing for the poor – a constitutional right in Colombia – but found that Article 79 of Law 1151 disregarded principles of the Colombian Constitution, which indicate that land use should be regulated by the different territorial levels. The ruling was not retroactive and thereby effectively ‘grandfathered’ all announced, approved and ongoing subprojects under Decree



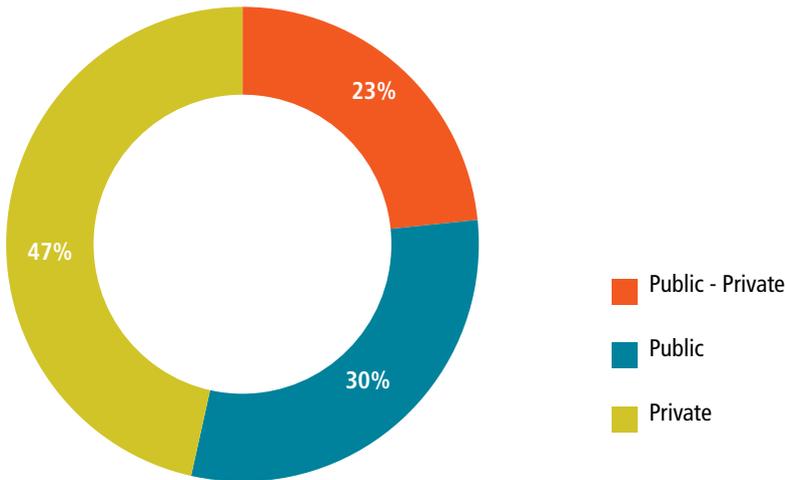
4260. 32 Macroprojects were left untouched by the Constitutional Court ruling. The court decision recommended that the Program be 're-designed' to further incorporate municipal authorities in the design, approval and implementation of the Macroprojects Program.

The Government then issued Law 1469 of 2011 to launch 2<sup>nd</sup> generation Macroprojects and comply with Court requests. This law established two types of Macroprojects: (i) Type I, when the Macroprojects must be developed according to the current norms, conditions and zoning codes established in the POT and (ii) Type II, when the Macroproject can change the current zoning and urban codes. In the latter case, the project needs to be approved by the local Council and specific time frames are dictated for the approval process.

Act 1469 of 2011 described the main goals of Macroprojects as joint interventions between the local and national levels of power that seek to provide social housing with high quality standards, following precise urban considerations. The procedure established by Act 1469 defined dialogue mechanisms between local and national levels. In both kind of projects the National Government and the Local authority must form an agreement that defines the duties that must be assumed for each part of the project's formulation and implementation. The two generations of Macroprojects, as stipulated by Act 1469 of 2011, were compiled by Decree 1077 of 2015, which now regulates the process.

Both generations of Macroprojects are comprised of 4 phases: Announcement, Formulation, Consultation and Approval. These projects could be of various initiatives: Public, Private or Public-Private. Most of them are private, particularly in cities with strong housing markets. The State has concentrated its efforts in small towns where markets dynamics are slow. The fewest projects fall in the category of public-private where the collaboration across sectors is most needed for a dynamic economy. Furthermore, many of these projects just needed public money and many were already approved PPs that were converted into Macroprojects because of funding problems.

**Figure 3 - Macroprojects by Initiative**



There are a number of issues related to the Macroprojects. The geography of Macroprojects is concentrated around large urban concentrations, where housing deficits are larger. This is also where land is required, but its supply at affordable prices is very scarce. Macroprojects have also had a negative impact on rural land prices. Previously, a landowner knew they had no chance of developing rural land, but now they feel that they have a development opportunity. Every landowner therefore imagines that they could have a Macroproject, which is not actually the case. The reason for this misguided expectation is that the Government has not established any minimum conditions to qualify to be a Macroproject, such as being located near the urban limit or having a regular water supply. Overall, the lack of clarity around what constitutes and qualifies as a Macroproject has caused significant confusion.



The idea of having large-scale housing projects to reduce the deficit is an effective one. Like Chile or Mexico, Colombia needs to ‘think big’ if it wants to considerably lower the quantitative deficit in this decade. It is also advisable to build these projects in rural areas next to main cities, where land prices are lower and where there is often a need for good housing options, especially for low-income families. The development of Macroprojects has, however, been mixed with some successes and many shortcomings in practice and processes. For example, it is arguable that the current government structures are not fit to work across large areas and with the extreme municipalization of the country (i.e local governance structures), it makes regional coordination almost non-existent or very difficult. There is thus no incentive to coordinate and work on large-scale land development projects if they cut across municipalities.

Many such projects are also undergoing serious revisions for problems that began with the lack of serious financial structuring. Local political will is failing to take critical financial decisions on these projects, which has affected the pace of construction. The Government initially funded these projects heavily and transferred large sums of money to the fiduciaries responsible for managing public private projects. Most of that money is still, however, waiting to be used, largely due to management problems that nobody considered initially; for example, the paving of the road that leads to the project, the extension of the water pipe or even bad decisions by local partners. In short, money is not the problem but the management of it appears to be difficult. Many good intentions from the Central Government end up failing, due to bad management and coordination of local administration, where most of the real and important decisions are taken on such projects in a heavily de-centralized country like Colombia. Consultations with environmental authorities take too long, trunk infrastructure is not planned and the coordination between offices is low. Many small municipalities are now against having more low-income housing in their territories, and have tried to pass city ordinances to stop the construction of some Macroprojects.

# 1. Case Study: Macroproject Ciudad Verde in Soacha, Bogotá

Figure 4 – Birds-eye view of Macro-project Ciudad Verde in Soacha



Ciudad Verde, a large Macro-project in Soacha, near Bogotá, exhibits some of the limits of Macroprojects, which can make them unsuccessful. With a very good location, the Ciudad Verde project was approved on a fast track and construction began quickly. 42,000 housing units could be built in this area. Three years on, the project is still highly underdeveloped and appears to lack direction and clarity. For example, the development was meant to produce (build and maintain) 12 schools (needed and promised to buyers), but the municipality is now saying it cannot afford to do so (and also has a reputation of being a poor and less-than-transparent municipality). This has caused some social unrest in the area. Furthermore,

the change of Mayor in Bogotá has meant that all previous commitments have now been stopped. The Water Company is now unwilling to extend their main infrastructure and provide water to another municipality. There is little conversation across municipalities to solve this issue, so in the end, the project is stalled and the communities are left in limbo.

## c. Neighborhood Improvement Programs

Neighborhood Improvement Programs were introduced in 1989 by the Urban Reform Law. They included housing, public services and infrastructure improvements, as well as settlement legalization. They required local authorities to carry out risk assessment, in order to identify families living in high-risk areas, and propose relocation projects. In 1997, the LDT defined neighborhood improvement projects as part of the urban component of the Land Use Plan, by creating a neighborhood improvement treatment. According to the LDT, under improvement treatment, other land management and planning tools, like Partial Plans and Urban Action Units, can be applied. However, as mentioned earlier, most Improvement Programs have not used or applied Land Readjustment projects (through PPs) as part of their programs and have usually focused on infrastructure improvement works and legalization. The Juan Bobo experience in Medellín, which will be later explained, had a highly successful experience that included real-state integration and re-densification.

### 1. Case Study Project- PMIB – Juan Bobo Neighborhood Improvement Program

Juan Bobo intervention in Medellín is framed within the city's Neighborhood Improvement Program (PMIB), under the supervision and execution of the Urban Renovation Company (ERU). Juan Bobo is located towards the northeast side of Medellín, very close to where the first Cable-Car and one of the city's Integral Urban Project (PUI) have been developed. The project is a very important example of public intervention in a marginalized area with high social and environmental impact. The following is a general overview of the project, highlighting the most relevant information based on a study elaborated by (BID, 2011).

## General Characteristics

As mentioned above, Juan Bobo is located in a highly problematic area, associated with the illegal occupation of the territory, which has ended in serious social and environmental deterioration. The project's main objective and challenge was to carry out a general restructuring of the territory, in which, as the environmental risks are tackled and the natural elements preserved, the affected population can either preserve their houses or be relocated to areas nearby. The project consists of integral solutions for 287 houses and different public space and public utilities interventions.

Before the project was carried out, the area presented several difficulties from housing, urban (0.5 square meters/person), environmental (90% of the river presented solid waste contamination) and social perspectives. The most severe conditions were found on the housing front, where of the 287 houses included in the project: 80% presented structural and functional deficiencies, 35% were located in Environmental Restricted Areas (in Spanish Zonas de Restricción Ambiental), 50 % had fraud water services, 35% fraud energy supply and 100% Informal sewerage. The average size of the houses was 29 square meters (4.2 persons/house), equivalent to 7 square meters per person.

Framed within the objective described above, the Juan Bobo intervention was developed under four different strategies:

1. The redefinition of the Environmental Restricted Areas surrounding the river, which defined the number of houses that should be relocated to risk-free areas. The original area accounted for 4,000 square meters<sup>2</sup> and the new one for 1,200 square meters.
2. The definition of a second segment of houses that needed structural upgrading in order to mitigate geological risks.
3. The selection of nearby areas for the construction of new housing solutions.
4. Design and construction of a public space system for pedestrian circulation and place making.

The project's physical intervention is summarized in the table below:

**Table 5 – Juan Bobo PMIB Project**

Component	Quantity /Units
Population	287 houses / 1,260 people
Total Area	100,000 m <sup>2</sup>
Public Space and Mobility System	4,500 m <sup>2</sup>
Natural Areas Recovered	2,000 m <sup>2</sup>
Pedestrian Accessibility Corridors	1,500 m <sup>2</sup>
Pedestrian Bridges	72 m <sup>2</sup>
Multi-familiar buildings for relocated families	8 units (8 new lots)
New apartments area	46,86 m <sup>2</sup>

### Impacts and Lessons Learned

Juan Bobo Project posed several challenges from a planning and management perspective on legal, social and institutional fronts:

The redefinition of Juan Bobo River ZAR demanded a crucial inter-institutional work between Medellín's Planning Office and the region's environmental agency. This type of environmental delimitation works is usually done on a macro scale during planning processes and this case demanded a crucial micro analysis of the area in order to define which houses should be relocated.

The interdisciplinary approach designed by the Public Sector to tackle and creatively solve a common problem found in Colombian cities in high risk areas was a very important success, as a team of experts (architects, engineers, social workers, and lawyers) spent all their working time in the area, working hand-in-hand with the beneficiary families.



The lack of knowledge, use and flexibility of alternative planning processes that involve communities much more is fundamental for the replication and implementation of these types of projects in a wide range of territories. Urban norms are usually designed from a technical point of view and lack a wider perspective to understand the social conditions that these types of territories (high risk) have, making projects much more viable.

One of the most important elements of the project was the close relationship between the state and the community, that not only transformed the credibility of public agencies, but created trust bonds between both communities, fundamental for the success of the project.

This social management approach was founded through “Urban Pacts” between the community and the ERU regarding themes like: relocations without expropriations, local councils that defined the project’s principles and scope, auto-construction, environmental and legal training, local construction sessions and open debates for the project’s consultation and execution. The wide range of training contributes to the project’s sustainability as the community becomes more involved with civic responsibilities that they did not necessarily know or care about.

These pacts generated a point of entrance for the public administration to territories that are difficult to penetrate, not only because of their social conditions but because urban norm restricts its intervention.

### **III. URBAN LICENSES/PERMITS**

The urban license is the tool that local authorities can use to guarantee that private owners and public entities effectively follow the regulations included in the POT. Article 101 of Law 388 of 1997 defined the ‘urban curator’ as the private actor that is in charge of studying and enacting the urban licenses requested by solicitors.

As per Decree 1077 of 2015, the urban curator executes the public function of verifying that the urban norms are fulfilled by the projects presented for approbation. The Decree states the different kinds of urban licenses and establishes the requirements needed for a solicitor to obtain an authorization. The Decree defines the urban licenses that would permit or not permit the following actions:



urbanization works, subdivision of plots, construction, building demolition, intervention and use of public space. In general terms, according with this Decree, a land owner should prepare an urban project that follows all the conditions established in the POT and the applicable urban norms. The conditions to obtain an urban license vary per the land classification but also in the kind of activities planned for the area. Regarding the land classification and the kind of intervention, Decree 1077 defines five different kinds of licenses:

1. **Development License:** is the authorization to advance in one or a group of plots within urban land, all the actions needed to adapt and subdivide those plots for future construction processes. These actions encompass the creation of public and private spaces, road network and infrastructure and public services works (Article 4).
2. **Parcelling License:** is the permit needed to advance in one or a group of plots within rural and suburban land, the same kind of actions previously mentioned but fulfilling the rules established in the POT for rural uses (Article 5).
3. **Subdivision License:** this license would be need to divide one or a group of plots located in rural, urban or urban expansion land. This kind of license could be an authorization for division of urban land (urban subdivision) or for rural area (rural subdivision) (Article 6).
4. **Construction License:** is the permit needed to advance constructions, circulation areas and social areas. In this kind of licenses the urban norms (uses, buildability, heights, etc.) would be specifically approved (Article 7). This kind of license has the following forms:
  - New work
  - Adaptation
  - Reparation
  - Modification
5. **Public space use and intervention:** This license is needed to use and affect public use goods in the public space.

## IV. URBAN DEVELOPMENT ACTIONS

The city planning actions determine the conditions by which public entities or private owners may intervene in the development of a territory. Article 36 of Act 388, followed by Article 2 of the Decree 4065 of 2008, refers to the ways these interventions could take place and classifies them as the following urban development actions:

- a. Parceling
- b. Urbanization
- c. Construction

These actions could be advanced by public authorities or by private owners, individually or as part of a group, by their decision or compelled by urban norms such as classification of land, definition of uses, activities allowed, and the urban managing conditions. From this definition, it is important to have in mind three elements: the territory where the urban development could take place, the actions involved and the legal tools available to advance this process.

As such, urban development actions must follow the conditions established in the Master Plan. Therefore it is important to explain if those activities required an urban license or not, as the license manifests the urban norms of the POT.

## a. Parceling

Parceling involves turning rural land in to buildable plots. The creation of plots, as part of the urbanization process is determined by city planning decisions included in the POT and other urban norms. In this same sense the creation of urban plots should not be understood as separate from the creation of public space, but each of them is described separately here in order to give a complete explanation about them.

In the creation of urban plots the relevant decisions would be made in three levels in accordance with the urban norms: Firstly, the general provisions of the POT related with the burdens and benefits scheme and the urban managing conditions allocated for a specific area. In a second level the specific rules included in the POT for the urban managing conditions. Finally, if the process will take place in expansion land, the partial plan is the instrument that will apply the scheme to distribute burdens and benefits, detail the urban managing conditions and will establish also the basic building potential and additional building potential.

## b. Urbanization

Urbanization incorporates the group of actions that provide an undeveloped plot or a group of plots with public services' infrastructure, the local road network, amenities and public spaces that would transform them to be suitable for future construction. Decree 4065 defines specific conditions that must be considered in the urbanization processes in areas under urban managing conditions of development. Article 5 of this Decree establishes that subdivision of plots in urban land suitable for urbanization that are still undeveloped could not be subdivided before the urbanization process. However, the subdivision could take place in the following cases:

- Subdivisions ordered by judicial decisions
- Land required to advance public utility works
- The division would separate areas localized in urban land from areas in expansion or rural land.
- If the POT or other instruments include special regulations about subdivision

- For processes in urban expansion and rural land, the Article 6 determines that the plots could not be subdivide into areas smaller than the familiar farm unit, before the partial plans for the area are approved. Any exception would need to be accredited in the urban license, and those plots are to be destined for those uses authorized by the POT.

In the creation of public and private spaces the land intensity conditions will correspond to the urban managing conditions for development. It is possible too, that construction or reconstruction processes take place in areas of the city under other urban managing conditions.

## c. Construction

The processes of construction must adhere to the urban managing conditions which define the following aspects of construction:

- Minimal areas for mega blocks, blocks, super-plots and plots,
- Volumetric norms
- Development index: defined as the proportion of the area that could be occupied by a building in the first floor. Therefore, the index is the result of the division of the height into the total area of the plot.
- Construction index: this index is the maximal times in which the plot's surface could become into build area. The index is the result of the division of the authorized building area in the total area of the plot.

- Building potential:
  - Building potential: square meters authorized to be build according with the uses established by the urban norms.
  - Basic Building Potential: is the urban benefit that indicates the maximal buildable area that a private owner might obtain according with its participation in the local urban burdens.
  - Additional Building Potential: Is the maximal buildable area above the Basic building potential authorized to the private owners that participate in the general urban burdens.
- Distance between buildings.
- Heights authorized.

## V. CREATION OF PUBLIC SPACE WITH LAND TRANSFER

Article 36 of Law 388/1997 identifies urban development actions (*actuaciones urbanísticas*) as the parceling of land, the provision of the portioned land with urban services and infrastructure and the construction of buildings (as detailed in the section above). The following Article 37, “Public Space in Urban Development Actions” states that municipal/district regulations determine the urban obligations for land owners. These obligations could be the development and construction of certain buildings or common areas like parks and green zones, the provision of urban infrastructure such as road infrastructure and public utilities or free land transfers for public space. The term public space refers to the portion of urban land that is dedicated to streets, sidewalks, parks and green areas and institutional, social and recreational facilities.

The mechanism of the *land transfer* is the main instrument that allows cities in Colombia to obtain land for public use without resorting to land purchase or expropriation. Municipalities can also use the priority development declaration, for those areas that are necessary to build public infrastructure in zones that are not part of urbanization processes. Land transfers are done by the owners in the context of any urban development action and represent its condition for admissibility. The Colombian constitutional jurisprudence has confirmed the legitimacy of the



land transfer mechanism, arguing that it does not pose a burden on the property right. It represents instead the fair contribution to the city for the received increased value of the property. Free land transfers are supported on the principle of burdens and benefits, so that by giving a portion of the territory, the owner is “giving back” part of the benefits that it is going to obtain in the future.

Free land transfer also stipulates the necessity of integration with the existing urban fabric (Article 50 Decree 564/2006): When determining the amount and the location of the land that needs to be contributed for public purposes, it needs to be ensured the continuity of the new road network, public space, squares and green areas with the existing infrastructure.

The portions of land transferred must be defined in the urbanization processes, as they will determine the space needed to construct the local road network, amenities, public space and public utilities infrastructure. These areas needed to support their urban development processes, therefore free land transfers conditions need to be defined in the POT.

Act 388 and the national complementary regulation establishes the main aspects of free land transfers that should be included in the POT:

### Land transfer delimitation

For public utilities infrastructure, Article 37 of Act 388 determines that in urbanization processes it is necessary to analyze, in advance, if it possible to extend the existing infrastructure, especially when the process is taking place in expansion land or under urban managing conditions for urban regeneration.

When the land is needed for *public space or green areas*, Article 15 of Act 388 established that they must be delimited in the POT but also in the land management mechanisms. Following this, Decree 1077 of 2015 stipulates that the POT must define:

- A general inventory of the elements of public space at local, departmental and national levels.
- Public space coverage and shortage per inhabitant data.

- Delimitation of public spaces at local level in partial plans and urban action units.

The specific conditions for construction and how the definition of this kind of free land transfers could change the developable net area will be included in the partial plan when it is necessary.

For the delimitation of *local street networks*, Act 388 of 1997 does not contain specific conditions. Therefore, Decree 1077 of 2015 specifies the minimal standards for the mobility infrastructure that must be followed by municipalities in their POT. It is relevant to explain the general ones related to local streets:

- Sidewalks must be at least of 1.20 meters (pedestrian area) and 1.20 meters for trees, obstacles and protruding objects.
- Traffic lanes must be at least 3.00 meters wide without public services transport presence. If there is public transport system, the street must be at least 3.20 meters wide.

Act 1083 of 2006 established that municipalities with a population of 30,000 to 100,000 inhabitants must adopt mobility plans to define the public transport systems, the street network and pedestrian circulation areas, regarding the POT's norms on these themes.

### **Definition of free land transfers in urban managing conditions**

In accordance with Decree 1077 of 2015, urban managing conditions (as prescribed in the POT) should define, among other elements, the free land transfers that need to be done by the owner to advance any intervention in the area that is under development managing conditions. Therefore, the urban norms will guarantee the free spaces for different purposes, local infrastructure or public space in general, are effectively delimited and respected.

Free land transfers, to allocate land for public purposes, are urban obligations that could only be imposed in urbanization or renewal processes, but not in an area that has been already developed. Thus, definition of free land transfers' urban managing conditions would be included only for development and regeneration treatments.



Decree 1077 specifically establishes the creation of public space as a condition for a development intervention (in a development treatment area). The article points out that the project should give continuity to the existing road network, the public space areas used for parks, squares, green areas, and the existing free land transfers in the neighboring plots.

Even though the national complementary regulation has not defined the content for urban renewal conditions, Article 37 of Act 388 of 1997 decided that in areas that are under these kinds of conditions, it is necessary to establish a way to determine if it is possible to extend and increase the public services infrastructure and public spaces.

### **Definition of free land transfers' extent**

The POT, according to the previous criteria for the urbanization process, must define the extension and components of free land transfers in two main ways:

- The percentage of land of the urbanization area that should be left for public purposes.
- The formula to define free land transfers depending on the expected density of the urbanization area.

Act 388 and the national complementary regulation do not define a minimum area that should be respected by local authorities; they are free to define the extent of free land transfers.

About free land transfers' specifications, Article 57 of Decree 1469 of 2010 determines two conditions:

- 50% of the free land transfer's area must be used for parks, green areas and public facilities and should be assembled in the same parcel or plot.
- The urban design for the development project must accomplish the following requirements:
  - Access to parks and public facilities through local streets.
  - Continuity of parks without private areas' interruption.
  - Free land transfers can not be placed in high-risk areas.

## Parameters and guidelines for the owners to compensate with money or land whenever it is necessary

Article 57 also determines that “(...) *When the free land transfers area is smaller than the minimal required by the norm, or when their location is inconvenient for the municipality or district, it is possible to compensate through money or other plots, according to the regulations of the local councils. These provisions must be included in the urban licenses of development or parcellation (...)*”.

Each municipality's POT would define the conditions of land transfer, so they would decide on the minimal extension or amount needed in urbanization processes. Regarding these conditions, the municipality would decide if the land transfer offered by a project is convenient and adheres to the city's requirements.

This tool has not been used by most of the municipalities in Colombia. Medellin is one of the cities that have advanced in this way.

## ENDNOTES

---

37. Act 388 established that POTs should be elaborated according to the population size of municipalities. There are three different types of POTs: Land-Use Plan (POT) for municipalities with a population over 100,000 inhabitants, Basic Land-Use Plan (PBOT) for municipalities with a population between 30,000 and 100,000 inhabitants, and Land-Use Scheme (EOT) for municipalities with less than 30,000 inhabitants.
38. The process for the elaboration or revision of the POT is divided into three different phases, where different actors take part: Formulation: The POT is elaborated by a team of experts, accompanied by the city mayor and the different city secretaries. POT formulations are usually open to tender processes in which different private professionals can participate. Consultation: Once the POT has been drawn up by the city administration, it then passes to the consultation phase where it must be discussed and revised by four different parties; the Regional Autonomous Corporation, the Territorial Planning Council and the general public (associations, NGOs, unions). Approval: Once the consultation phase is completed, the city administration must present the POT project to the city council, who is responsible for its final approval. The POT can either be approved under agreement between the city administration and the city council, or through mayoral decree if the council does not approve the POT.
39. Source: Salazar, J. (2007).
40. Book 2, Part 2, Title 2, Chapter 1, Section 4, Sub-Section 1
41. The cases where a joint land management is needed will be defined by each POT.
42. Source: Alcaldía Mayor de Bogotá (2004).
43. Book 2, Part 2, Title 4, Chapter 1
44. Book 2, Part 2, Title 1
45. Book 2, Part 2, Title 2, Chapter 1, Section 4
46. The Decree 3600 of 2007, includes a definition each kind of use: a. Main use: It is the desirable use that corresponds with the specific function of the area and offers the greatest advantages for a sustainable development. B. Complementary Use: It is a use that is not opposite to the main use; matches with its possibilities, productivity capacity and protection rules. C. Restricted: where the use is incompatible with the main use in a certain degree, but is possible to adapt it according with urban norms. D. Forbidden: Incompatible use with the main use of an area; it is against ecological conservation objectives and territorial planning conditions.
47. Book 2, Part 2, Title 3, Chapter 1, Section 4
48. Book 2, Part 2, Title 6, Chapter 5
49. Other planning instruments include Patrimonial Conservation Plans, Integral Upgrading Programs and Rural Planning Units. Some cities in Colombia, like Bogotá, further elaborated on intermediate planning instruments, creating tools like master plans, Zonal plans, Zonal planning units.
50. Book 2, Part 2, Title 4, Chapter 1.
51. Source: Map elaborated by consultancy team based on geographic information provided by Bogotá's City Planning Office (2012).
52. This decree was explained in detail in Section 3.
53. Through which specific norms are issued for acts and processes of urbanization, lot formation and construction on urban, expansion and rural land of the Municipality of Medellín.
54. Source: Map elaborated by consultancy team based on geographic information provided by Medellín's City Planning Office (2012).
55. The management associated with landowners is based on the articulated implementation of land management instruments that allow the establishment of the initial value of the land and the value as a result of the equal distribution of benefits and burdens.
56. Book 2, Part 2, Title 4, Chapter 2.
57. The first kind of Macroprojects was established by Act 1150 of 2007 but the Constitutional Court declared this instrument as unconstitutional in 2010. Later in the Act

## ENDNOTES

---

- 1469 of 2011 the Macroprojects were established again with several modifications.
58. Since then, MAVDT has split, creating two different Ministries: (i) Environment and Sustainable Development and (ii) Housing, Cities and Territory. This, now called MVCT, is in charge of Macro-projects.
59. Book 2, Part 2, Title 4, Chapter 2.
60. Source: Amarilo S.A.
61. Source: DNP (2009).
62. Land Readjustment or Real-state Integration mechanisms
63. Source: BID (2011).
64. Conducted surveys showed: high unemployment levels, low education levels, malnutrition, lack of State credibility and several civic and community issues.
65. Total Population – 287 houses/ 1,260 people
66. This area was originally planned by the city's POT and the original delimitation would have affected the majority of houses. The new area was delimited by technical studies performed by both the Planning Office and the Environment agency.
67. Relocated families: 21 for environmental purposes, 63 because of structural deficiencies and for urban reorganization, 10 that presented severe overcrowding, and 24 affected by new public works.
68. Book 2, Part 2, Title 6, Chapter 1
69. According with the Law 160 of 1994 these units are the basic area of agricultural, livestock, poultry production, which extension regarding on environmental conditions and accurate technology, allows a family to payback the work done and count with money excess to add to their capital.
70. This mechanism is established in Article 52 of Act 388 as a way to compel owners to develop their plots regarding the property right's social function principle. Therefore, whenever they are not effectively developed, municipalities can initiate a process to obtain them through compulsory purchase.
71. Book 2, Part 2, Title 3, Chapter 1
72. Book 2, Part 2, Title 3, Chapter 5, Section 2
73. Book 2, Part 2, Title 2, Chapter 1, Section 4



PiLaR in La Candelaria, Medellín collaborated with residents to arrive at a final design that improves conditions for current residents and the efficiency of urban service delivery. © UN-Habitat

# LAND MANAGEMENT TOOLS



Urban structural norms include decisions related to the application of planning and land management mechanisms that would translate POT provisions for specific cases and would help to advance urban development actions. For the present analysis is relevant to explain the following land management instruments: urban action units, land readjustment, cooperation between participants, project announcement, appraisal, right of refusal, voluntary disposition, eminent domain, expropriation, pre-emption right, declaration of priority development, and regularization.

## I. URBAN ACTION UNITS

Article 39 of Law 388 of 1997 (the LDT) established that Urban Action Units (UAUs), composed of one or more plots that are categorically delimited by the urban norms in the POT, are areas that must be developed as one integral unit within a Partial Plan. This land management mechanism seeks to encourage a rational land use, ensure compliance with planning standards and norms, and guarantee the construction of infrastructure for transportation, public services, and amenities, supported by the equitable distribution of benefits and burdens.

POT provisions determine the urban action units, but they will be implemented as part of a partial plan. Local authorities or citizens propose the units' delimitation, then it will be accepted by the planning authority, after the partial plan is approved (Article 42 Law 388 of 1998).

As such, the urban action unit is a smaller-scale management tool that corresponds to a specific piece of area defined within the area of a PP during its formulation and planning process. UAUs depend on the delimitation and planning regulations of PPs and their main role is to serve as a unit to execute and distribute the benefits and burdens derived from the PP. Within the area of a PP, any number of UAUs can be defined.



Consequently, the areas included in an action unit will be managed and developed in a joint scheme between the private owners that are part of the unit. Local costs are distributed among landowners within the same UAU and compensated by the benefits awarded through urban standards and by the land contributions. General costs are distributed among all beneficiaries (general citizens benefited by them) and are usually paid and collected using different financial tools like tariffs, special assessment tax, land-value capture or property tax.

Each POT defines the areas to be developed using UAUs in urban or expansion land. The area defined by a UAU should allow infrastructure and urbanization costs to be fully assigned and paid by landowners within it. The delimitation of the UAU will be carried out by the competent authorities or by stakeholders, as established by the POT and under the existence of a PP. Together they must define:

- The provision of infrastructure, public buildings and public space
- Land subdivision for project phasing and execution, and
- The systems and instruments that will be used to fulfill the principle of equitable distribution of benefits and burdens

The execution of a UAU implies the associated management of landowners involved, using mechanisms such as land readjustment (also known as real-state integration) or cooperation between participants that fulfill the equitable distribution of benefits and burdens. According to the LDT, for a UAU to be executed, the association and prior consent of 51% of landowners must be guaranteed. Owners who do not agree with the association may be expropriated by the city administration.

## II. LAND READJUSTMENT

In Colombia, Land Readjustment (LR) is a land management tool envisaged since 1989 and linked directly to the development or renewal of urban projects for the city, understood as part of an intermediate planning tool: The Partial Plan. Although several definitions of LR can be found in different specialized literature in Colombia, including those in the national legislation, for this study, LR will be defined as: a mechanism used to develop Urban Action Units, which allows a new lot configuration and the better conformation of a new urban area, and therefore guarantees an equitable distribution of benefits and burdens derived from its development. The current Territorial Development Law (*LDT*) included Land Readjustment as one of the main tools to render it possible to execute the “social and ecological function of property” principle.

As studied in the Planning Instruments chapter, partial plans are medium-scale planning and land management instruments aimed at developing or complementing the provisions of the territorial plans (POTs) for certain sectors of urban land and for all land intended for urban expansion. This instrument serves to:

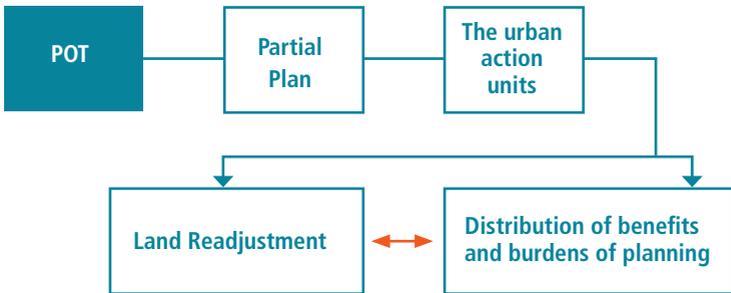
- Avoid plot-by-plot development of the city;
- Determine the conditions of participation and benefits of the stakeholders who take part in the plan;
- Define the timetable and the stages in which the project is to be developed; and
- Establish the need for investment, etc.

The UAU is the mechanism through which a partial plan is implemented or developed, since it delimits and integrates one or more properties to build or urbanize within a particular project, guaranteeing the fulfillment of planning requirements, the production of public goods, and the management and participation of the owners.

In this sense, land readjustment is established as the mechanism through which

the UAU is implemented, since this instrument is used to define the following points: (a) compulsory associated management among owners, as long as there is consensus among them representing at least 51% of the area of the unit; (b) the possibility of using expropriation against reluctant owners; (c) the guarantee of equitable distribution of benefits and burdens; and (d) how the reconfiguration of property within the area is carried out.

**Figure 1: Planning and Land Management Framework for the Implementation of Land Readjustment in Colombia**



The basic concept of land readjustment is that all landowners in a given area pool their land resources and the area is then re-surveyed to include appropriate public infrastructure. The remaining land is then re-surveyed and returned to the original owners. The reconfigured plots of land are then available for either individual or collective development with the result that after the project land values have increased because of improved access and enhanced city services. Each owner's plot may have a somewhat different shape and be in a slightly different location, but the end goal is that all landowners are better off as a result of the land readjustment process.

According to the LDT, the objective of LR is to allow the new definition of a plot structure, therefore achieving a better configuration of an area to be urbanized, with higher density possibilities, and to guarantee the equitable distribution of benefits and burdens between landowners. The new configuration will allow a better provision of infrastructure and public places, to later subdivide new lots and



develop them (originated in Act 9/1989 – Arts. 25, 77 and 78, and Act 388/97 – Arts 45, 46 and 47). The principles and tools introduced by the LDT, including LR, established a new urban development approach, breaking a long and lasting tradition of “lot by lot” developments and the “prevalence of particular interest over general”. For areas under renewal or redevelopment treatment, the same mechanism is used, but is known as *Real Estate Integration*.

It must be understood that, according to the LDT, Partial Plans (as articulated in chapter 3) constitute an intermediate planning tool that shape the conditions for planning, management and financing for urban land and land for urban expansion, and that may use mechanisms like Land Readjustment to define land management intervention. However, this does not necessarily mean that all Partial Plans need to be developed using land readjustment, but it is essential to understand that the economic and social conditions to implement land readjustment, according to the LDT, are directly linked to Partial Plans.

According to the LDT, LR should be applied for areas in expansion land, and for areas under development and redevelopment treatment in urban land. Its applicability is directly related to areas defined as UAUs and therefore to PP. The procedure to develop a LR project, according to the LDT, follows these steps:

- The definition of lots subject to readjustment, according to the guidelines set by the PP and the corresponding UAUs.
- The creation of a management entity that will design and carry out the urban project through a PP.
- The readjustment proposal must be presented, along with the PP, to the corresponding planning office for its approval. This must have been previously approved by a minimum of 51% of landowners.
- The readjustment proposal must indicate the ground rules for initial land value calculations, the land value of urbanized lots according to land uses, the designated densities and the commitments and costs assigned to landowners.

- Land payments will usually be paid with urbanized lots according to the respective land input. If this is not possible, payments may be made through economic compensation.
- Awarded lots shall be bound to comply with costs and payment of the costs of urbanization for the development of the UAU. Once urbanization work (land and infrastructure development) is completed, building construction on the new lots may be executed independently by their owners.

One of the most important aspects of LR in Colombia is that it is intended to be used under the voluntary disposition of landowners. The readjustment project must be included within the delimitation of a UAU and will only be approved with the prior consent of 51% of landowners. The Colombian legal-urban system allows the city administration to buy the lots that represent the remaining 49% when this condition is fulfilled, and allows tools such as ‘eminent domain’ to be used in order to guarantee the prevalence of general interest.

## 1. Case study: Land Readjustment in La Brasilia Neighborhood after Earthquake

The re-urbanization of La Brasilia neighborhood (part of Armenia’s Zone 1), was a project planned and executed under the Coffee Region Reconstruction Fund (in Spanish *Fondo Reconstrucción Eje Cafetero* - FOREC) program, created after the devastating earthquake that struck the coffee production region of Colombia in January 1999. As of that year, Armenia had approximately 298,000 inhabitants over an area of 110 square kilometers. The earthquake took the life of almost 1,500 people; it destroyed nearly 17,000 houses and left serious damage in 30,000 others. Studies conducted by Camargo, S. (2003) and Alfonso, O. (2003), illuminate that the re-urbanization of La Brasilia neighborhood, the one and only area that totally collapsed after the earthquake, is a successful experience of land readjustment implementation in Colombia.

## General Characteristics

Zone 1 had a total area of 31.2 Ha and 1,786 total lots. The area was divided into two different sectors, each with a different origin: 1) A sector of almost 10 Ha that was developed through different ‘invasions’ over the course of 20 years, which included 604 lots and was located close to a river basin, and 2) A plain terrain with an area of 21 Ha developed by State organisms between 1970 and 1980, with a total 1,182 lots for medium-income families. According to the FOREC, more than 80% of the houses built in La Brasilia suffered severe damaged and 909 collapsed completely.

The reconstruction operation over the 31 Ha of Zone 1 focused on three different strategies:

- Housing program: Included housing repair, new housing construction, and subsidies for families located in high-risk areas and for leaseholder families, so that they could access new homes in other areas of the city.
- Civic buildings, infrastructure and urbanism reconstruction.
- Social program: Included health assistance and technical assistance for the subsidy application process.

## Intervention Process in La Brasilia Neighborhood

The reconstruction project of La Brasilia over an area of 4.1 Ha, took over three years and included social, legal, economic and technical work, divided into 8 different phases, and was executed by the *Antonio Restrepo Barco* Foundation. The process was divided into diagnosis, fundraising, planning, property adjudication, urbanism and housing works, Return Plan and property ‘securitization’ phases. It included several disputes between the different actors involved, but was made possible with total participation of the community.

Planning: The planning process worked on the maximization of the available area to develop land for more than 280 new lots. The process included the elaboration of a Renewal Partial Plan scheme (and the delimitation of the UAU), through which the area could be appropriately delimited and designed, which was initially negated



by the City Planning Office, but later approved. One of the main objectives of the community was to maintain their same lot location and improve the accessibility of lots to green areas and vehicular streets. The process also included a socio-technical approach mediated by a Technical Committee that worked to achieve an agreement between landowners for the modification of the existing lot structure. The Return Plan focused on the normalization of community life through the conformation of health, green and public space, and community building committees, integration workshops and events. For the housing construction phase, the plan contemplated an open-tender process awarded to 6 different construction companies.

**Legal:** The legal process was developed over the course of all phases, as it was the main piece of the intervention. During the diagnosis phase, all lots were studied and some had to undertake a restructuring process. For this process, a Legal Consultation Center was built in order to offer personalized attention to all landowners. Once these judicial processes were terminated and the new lots were defined (Total Area = 58 square meters), the lot re-adjudication process started. One important point worth noting is the fact that the new adjudication process had to first join all existing lots (after all were appropriately restructured) in one deed and later divide them into new separate deeds.

**Land Management:** The land readjustment process divided all lots in 'La Brasilia' into 4 different categories and established different procedures for their readjustment:

- **Type A:** Lots located in high-risk areas that were completely destroyed by the earthquake were bought from the landowners by the municipality using FOREC funds, regardless of size and location. Additionally, families received a housing subsidy (worth \$ 8 million pesos) and could use these earnings to buy a new house elsewhere in the city.
- **Type B:** Lots located in high-risk areas that were completely destroyed by the earthquake and were occupied without property titles. These lots were also bought by the municipality and received the same benefits as type A lots.

- Type C: Lots located in areas where they could not be built according to urban norms.
- Type D: Lots with no problems but which could not be developed due to infrastructure deficiencies as a result of the earthquake.

Consultations for the new urbanization project, the new lot structure and the construction of new houses were held with landowners of type C and D lots. Their lots were not bought by the municipality, but instead they received the 8 million housing subsidy for the construction of their new homes once the urbanization process was finished. Furthermore, thanks to joint work between the community and the Foundation, a lot owned by a church was given to the municipality for the construction of parks and roads.

Financial: All urbanization costs were covered by the FOREC, but the Project Management costs had to be covered directly by the Foundation. One important goal achieved by the project was the reduction of construction prices, as the community was able to negotiate with developers and set reasonable prices for materials through an open-tender process and a local material showcase. The new houses had a final value of \$8 million pesos, which met the exact amount given to landowners through the subsidy program.

Governance: Many different actors were involved in the reconstruction of La Brasilia. As mentioned earlier, Foundation Barco Restrepo executed the project under the surveillance of FOREC, as Project Manager. Its role was fundamental, not only from a planning and fundraising point of view, but also from governance and community interaction perspective as the Community Action Council resigned, creating power absence. The Foundation became the link between the State and the community, and executed supervision activities during the housing and urbanism construction. One of its main duties was to mediate with the FOREC the finance of all construction works and the financing of the Project Management costs that FOREC did not want to recognize.

## Lessons Learned

- Landowners agree to become partners in the new project, through the application of the “Cooperation between Participants” tool mentioned earlier. Land costs were not charged to the project and the community was able to play a partner-beneficiary role, thanks to the project manager characteristics.
- The project responded effectively to the city’s need to create and develop new land after the earthquake.
- The open-tender process to National developers allowed the fixing of a maximum per-meter price for new houses, and gave control to landowners of the negotiation and price definition process.
- The community played a fundamental role in the management and economic control of the project. The community was also involved on the technical front as part of the urbanism designs and the new lot adjudication process

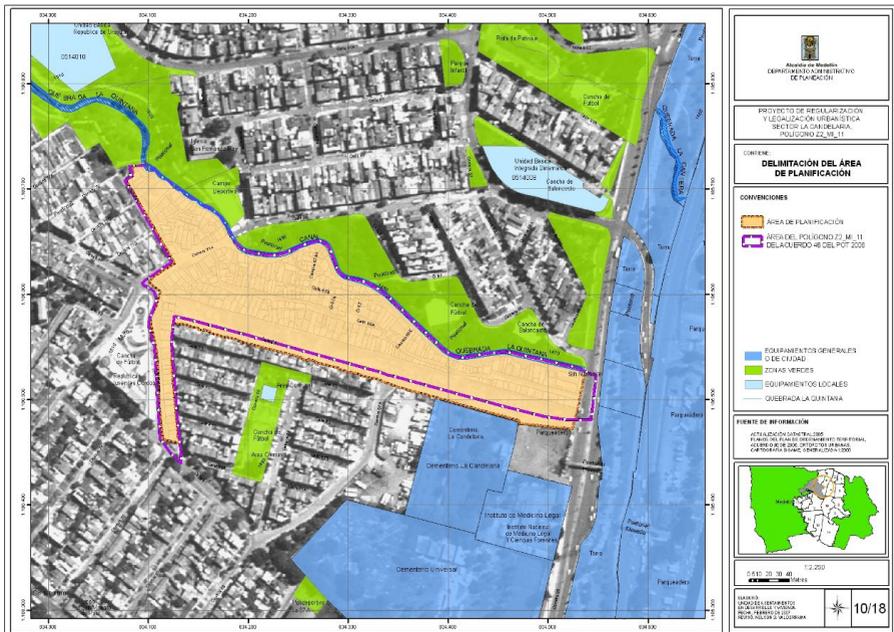
## 2. Case Study: Participatory and Inclusive Land Readjustment (PILaR) in La Candelaria, Medellín

The area of the Medellín barrio of Córdoba known as La Candelaria has been settled since the 1960’s on the left bank of the stream Quintana. This informal settlement is now the focus of a partnership between the City of Medellín and UN-Habitat to regularize and improve living conditions in the area. In areas such as Candelaria, the unplanned and irregular shapes of land parcels make the upgrading of city services and infrastructure extremely difficult. Current law in Colombia allows for land readjustment in such cases. UN-Habitat has proposed a new approach to land readjustment known as Participatory and Inclusive Land Readjustment (PILaR). This new methodology strives to achieve a more inclusive and participatory engagement process which is pro-poor and gender responsive. The approach emphasizes early and consistent, but realistic, stakeholder participation to encourage community ownership of urban redevelopment.

The subject property for this proposed partnership is depicted in the figure below. It consists of an area of 3.79 hectares (37,884.8 square meters) along the banks of La Quintana River adjacent to La Candelaria cemetery on Road 84. The area is generally considered to be highly vulnerable, presenting substantial deficits in both the size and quality of housing and public space. The physical layout of the area is irregular and quite dense, limiting the integration of the transportation infrastructure with the surrounding area and therefore mobility internally and externally. These limitations also make it difficult or impossible for emergency vehicles and personnel to access the area in the event of a fire or other extreme need.

Current land use is a mix of 772 buildings, 95% of which are either residential (82.5%) in nature or a mix of residential and commercial (12.4%). These buildings occupy 49% of the land area; the balance being divided between roadways (30%) and public space and public facilities (21%).

**Figure 2: Proposed Project Site**



The most recent population estimate places the number of inhabitants in the area at 3,276, divided into 798 households and with an average household size of 4.46 persons per household. The age and gender breakdown in the area is shown in the table below.

**Table 1: Population, Age, and Gender in La Candelaria**

Age range	Male	Female	Total	Percent Female	Age Group – Percent of Total Population
0-11	503	461	964	47.8%	29.4%
12-24	426	454	880	51.6%	26.9%
25-60	567	693	1260	55.0%	38.5%
61 or more	71	101	172	58.7%	5.3%
Total	1,567	1,709	3,276	52.2%	100.0%

Income levels in the area are reported to be quite low as shown in the table below. The data indicate that over half (58%) of the households in La Candelaria earn one minimum wage or less.

**Table 2: Income Distribution in La Candelaria, 2007**

Relationship to 2007 minimum wage	Monthly Income range (2007 COP)	Equivalent annual income (Current US\$)	Number of households	Percent of households
0	0	\$0	10	1.3%
Less than 1 minimum wage	1-100,000	\$0.01 - \$603	33	4.1%
	100,001-300,000	\$603 - \$1,810	192	24.1%
1 minimum wage	300,001-400,000	\$1,810 - \$2,414	236	29.6%
1 to 2 times minimum wage	400,001-800,000	\$2,414 - \$4,828	142	17.8%
2 to 3 times minimum wage	800,001-1 million	\$4,828 - \$6,035	148	18.5%
3 or more times minimum wage	1 million or more	\$6,035 or more	37	4.6%
Total			798	100.0%

Another indication of economic conditions in the area is reflected in the distribution of plot sizes. While there are 772 buildings located on 354 plots. Using the total occupied land area and the total number of plots, the average plot size is 52.3 square meters, however the distribution of plot sizes shown in the table below indicates that most plots are between 20 square meters and 59 square meters.

**Table 3: Distribution of Plot Sizes**

Plot size (square meters)	Number of plots	Percent of total
< 15	12	3.4%
15 to 20	17	4.8%
20 to 35	83	23.4%
35 to 43	48	13.6%
43 to 59	74	20.9%
59 to 71	50	14.1%
> 71	70	19.8%
Total	354	100.0%

The intent of PILaR is to involve current residents in a collaborative process to arrive at a final design that both improves conditions for current residents and facilitates the efficient delivery of improved urban services. But the expectation is that any resulting road re-alignment and increased density will also yield higher land values. The question addressed in this section is how the municipality might share in the increased private land value resulting from PILaR. Land readjustment schemes like that of La Candelaria, can analyze the most appropriate and effective land value sharing tools to use for financing the project, which are detailed in the following chapter. The issue is complicated somewhat by the fact that the city government already owns 60% of the plots as shown in the figure below.





### 3. Case Study: Land Readjustment as a Means of Participation and Inclusion of Communities in Urban Renewal: The Experience of the Fenicia Project in Bogotá

#### Introduction

The *Triángulo de Fenicia* (Fenicia Triangle) is an urban renewal project in a section of downtown Bogotá, within the immediate vicinity of Los Andes University, the main promoter of the project. The project is in its first phase of implementation, but the way in which it has been formulated, as well as its characteristics and basic objectives, have made it a reference point in the city of Bogotá. In general, it presents two notable characteristics: (a) the promoter is Los Andes University, an institution of higher education – not the state or private investors or landowners; and (b) it aims to correct many of the equity problems that other urban renewal projects in the city have generated, and it does so by promoting inclusive and deliberative dynamics among the stakeholders, local authorities, and property owners in the zone.

The Fenicia Partial Plan is a private-initiative project, the objective of which is to revitalize 8.8 hectares of that zone of the city by generating an offer of housing, public space, and consolidation of centers of services and commercial enterprises. The project was initially formulated by Los Andes University, but the community and the District Administration were later included as key stakeholders for the process of formulating the plan. During this stage, participatory discussions and workshops were carried out with the owners, which served not only as channels of communication among the different stakeholders, but also as spaces for discussion and negotiation of their respective interests.

## Background to the Project

Taking advantage of the fact that the revision of the Bogotá POT in 2003 included an area adjacent to the university's traditional campus as part of the areas open to urban renewal, in 2007 the university decided to play a leading role in formulating the partial plan for the area. For this purpose, it hired a well-known promotion and construction firm to formulate an urban renewal partial-plan project. Although the area included in the project covered a total of nine blocks, the university focused its attention on only one of them, where it planned to expand its campus.

By 2010 the situation was precarious. There was a proposal that had been elaborated completely "behind closed doors" by the university; only three lots had been negotiated on the block in question; public resentment of the *Manzana 5 project* – a neighboring area of the project – was growing; the social movement organized to defend the land in the city center from urban renewal by real estate projects with no consideration for resident communities gained ground in public discussions; and all private initiatives of partial plans for renewal – except *Proscenio* – were blocked in their processes of formulation and approval.

It was at this moment that an unprecedented process took place within the university. Under the leadership of Oscar Pardo, at the time a professor at the Business School, the way in which the university had been developing the proposal, as well as its scope and objectives, began to be questioned. According to the professor, an urban project in the zone adjacent to the university's traditional campus should be an opportunity not just for the physical transformation of the university surroundings, but for the social and economic situation of neighborhood inhabitants as well. With his leadership and vision, a process of raising awareness and negotiations began with those responsible for transforming the initiative. These actions totally reformulated the project. By the end of 2010, the professor obtained the endorsement of the project administrators and the university president to modify the project and form a multidisciplinary team of university professors charged with creating an innovative workspace for the initiative.

Thus, the *Progresía Fenicia* Program of Los Andes University was born and given the mission of coordinating an urban renewal project that transcends the logic of a real estate project and can modify the patterns of exclusion and lack of consultation and cooperation that characterized the initiative at that moment.

The first consequence of this change of focus was to return to the very beginning of the administrative process to formulate and approve a partial plan. Although the first initiative had formally advanced to the consultation and coordination phase, the *Progresa Fenicia* team understood that the only way to advance in a transparent way was by forming bonds of trust with the neighborhood community, and for that it was necessary to start the process all over again.

### Project Area: Situation and Characteristics

The area of intervention is located in the *Las Aguas* neighborhood. The target area of intervention is delimited by Circunvalar Avenue, 3<sup>rd</sup> Avenue, 20<sup>th</sup> Street and Jiménez Avenue, grouping together nine blocks and a total of 504 real estate units that make up an area of approximately eight hectares (shown in the following two figures).

**Figure 5: Location of the Fenicia Triangle Partial Plan**



Based on the Technical Support Document (*TSD*) of the partial plan:

- approximately 460 families live in this area,
- 54% of the land corresponds to housing, 20% to surface-parking lots, 12% to commerce, and the remaining 14% is dedicated to institutional and industrial use, and
- of the 500 existing property units, 13 are property of the city, 9 plots are property of Los Andes University, and the rest belong to other private owners.

The primary use of the land in the zone is residential (50% of the area of the plan), with three main types of housing: (a) one- and two-storey adobe houses; (b) two- and three-storey houses built of concrete and brick; and (c) condominium buildings.

**Figure 6: Delineation of the Fenicia Triangle Partial Plan**



The next most common use is that of commerce and services (34%) that mainly cater to the needs of the university population of Los Andes and other neighboring universities. These mainly consist of restaurants, stationery stores, shops and parking lots. This last use has the greatest impact on the zone and occupies around 21% of the land (Universidad de los Andes, 2014).

The following table shows the public and private areas before and after the project. In all, the partial plan has a gross area of 88,164.91 square meters (8.8 ha), of which 28,706.61 square meters are currently public area and 59,458.30 square meters are private area. The *Fenicia* Partial Plan would generate a total of 62,109.90 square meters of public area and 26,055.01 square meters of private area. In this sense, the project would increase the public area and reduce the private area in this sector of the city.

**Table 4: Comparative Table of Areas Before and After the Fenicia Triangle Partial Plan**

Areas	Before (Square meters)	%	After (Square meters)	%
Public Area	28,706.61	33	62,109.90	70
Private Area	59,458.30	67	26,055.01	30
Total Area	88,164.91	100	88,164.91	100

The housing types that make up the target area of the partial-plan project appear in the table below. In general, the presence of condominium properties is very significant since it represents 53% of the total number of real estate units. Nevertheless, their land coverage accounts for only 7% of the total land area.

**Table 5: Real Estate Units within the Partial Plan**

Property type	Real Estate Units	%
Condominium	269	53
Non-condominium	235	47
Total	504	100



With the implementation of this project, it is expected that 900 housing units will be built, of which around 20% will be social housing (108 units), 400 will be replacement housing for the original owners and 500 units will be new housing, with which to accommodate approximately 3,100 new inhabitants that are expected in this sector of the city.

### **Process of Formulating the Plan: Stakeholders, Interests, and Roles**

The formulation of this project can be divided into two stages: the first, from 2007 to 2010, and the second, starting in 2010. During the first stage, the university, with no coordination with the different stakeholders involved, took the initiative of advancing in the formulation of a project taking only its own expectations and needs into consideration. During this phase, the university developed a proposal without any process of discussion or consultation with its neighbors in the area and with very little coordination and supervision on the part of the local authorities. This proposal did not advance very far in the process of obtaining approval, although it generated a basic proposal of urban design and land usage.

The second stage, which began in 2010, fundamentally changed the working approach and was structured on the basis of a work scheme that recognized four main stakeholders:

- the community of owners and residents of the area of the project;
- neighboring communities adjacent to the area of intervention;
- different entities and city government offices involved in the approval process; and
- the Los Andes University community (students, professors and administrative personnel).

The main stakeholders, interests and roles encountered in the Triángulo de Fenicia Partial Plan are described in the following figure.

**Figure 7: Actors, Roles and Interests of the Fenicia Triangle Partial Plan**

ACTORS	ROLE	INTERESTS
 <p>Andes University and community</p>	<p>Make proposals to manage and implement projects, provide financial resources to fund projects, and coordinate negotiations and participatory activities with stakeholders</p>	<p>Generate returns for their investments and businesses</p>
 <p>Entities and city government offices</p>	<p>Issue guidelines; guide, evaluate and create concepts; and adopt the corresponding administrative act</p>	<p>Generate public spaces, equipment, and public goods that improve the sector</p>
 <p>Landowners and sector residents</p>	<p>Participate in the process and be open to listening or propose alternatives that facilitate the development</p>	<p>Increase their personal and collective heritage and improve their quality of life and home environment</p>
 <p>Neighbors and users of the sector</p>	<p>Maintain social control and support improvement of the sector</p>	<p>Improve the environment and quality of life</p>

Between 2010 and 2014, Los Andes University, as promoter of the partial plan, concentrated on strengthening the bonds of trust with these stakeholders, and established different channels and forms of communication and coordination with each group of stakeholders in order to know more about their expectations and needs with respect to the project.

The process of interaction between the university and different community actors took place through different workshops and open meetings in order to recognize the differences and disparities between the expectations and needs of the community depending on variables such as socioeconomic condition, type of tenure, and economic activities conducted there. Different actors were invited to trust-building activities, segmented on the basis of such variables, and discussions regarding the project extended the efforts by bringing the community together in diverse groups based on the aforementioned characteristics.

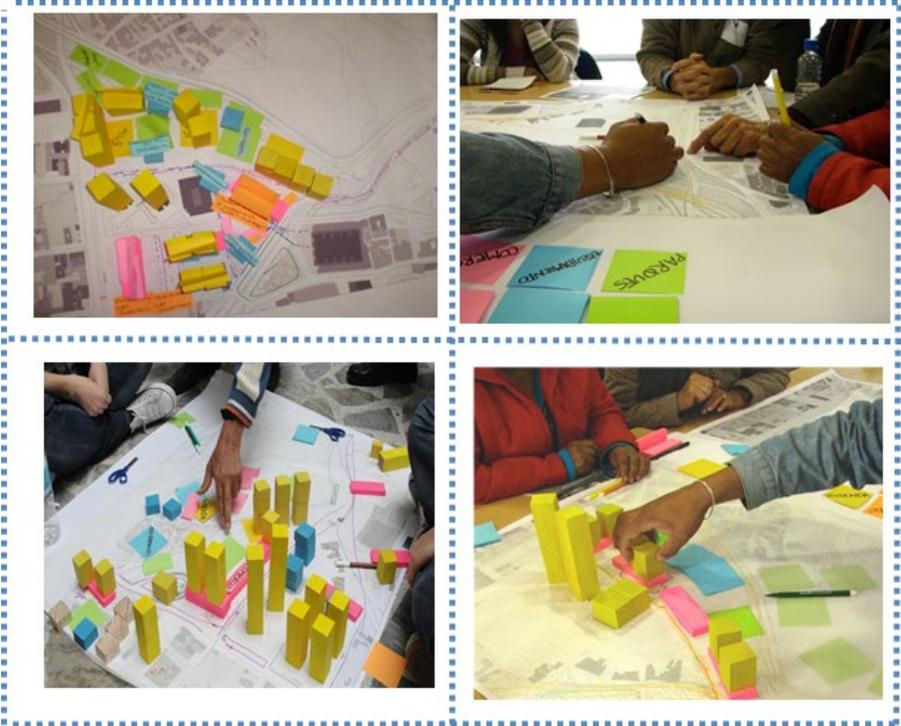


Among the results of this stage, one can highlight: (a) the construction of a network of key actors that served as a primary network for the inter-relationship with the neighborhood community, and (b) a detailed understanding of the living conditions of the inhabitants of the zone through the realization of a living-conditions survey that made it possible to map the diversity of the stakeholders residing in the zone, their main needs, and some of the challenges of inclusion that the project would face.

The results of the survey showed that two of the nine city blocks to be included in the intervention were non-legalized plots in zones of public space, with informal housing units (e.g., dirt floors, water-supply and sewerage problems, and walls and roofing made of materials unsuitable for the terrain). Furthermore, approximately 30% of the population made their living in the informal economy; there were a many productive housing units (i.e., those that combine residential and commercial uses or provide services); and 60% of the residences were located in condominiums and were considered to be middle and lower-middle class accommodations.

One of the most important types of activities carried out during this phase was the participatory urban design workshop (see photos below). The objective of these workshops was to create space for informed participation with the people who inhabit and/or work in the *Fenicia* sector, so as to define a collective vision regarding how they imagined the urban transformation of the area. For this purpose, each workshop carried out discussion and reflection on the implications of change in the area. These activities began in plenary sessions and later divided into smaller groups, aiming to get the group working together to develop abstract proposals representing ideas about what the physical transformation of the sector could look like. The results of these participatory workshops later became the starting points for development of the urban proposal.

**Figure 8: Participatory Urban Design Workshops**



In parallel with these activities, the university has promoted a continuous effort of collaboration and follow-up with different public actors from the city government, mainly with the District Planning Secretariat, which is the entity in charge of coordinating and monitoring the process of formulating the Partial Plan proposal. The work with the Secretariat consisted basically of sharing the progress on plan formulation, approaching and holding discussions with the community, and generating working groups to facilitate the review of the different technical aspects of the proposal (e.g., public space, streets, densities, etc.).

The basic objective of these working groups was to get the Planning Secretariat to take up this project as a pilot project. Then, from that experience, it would be

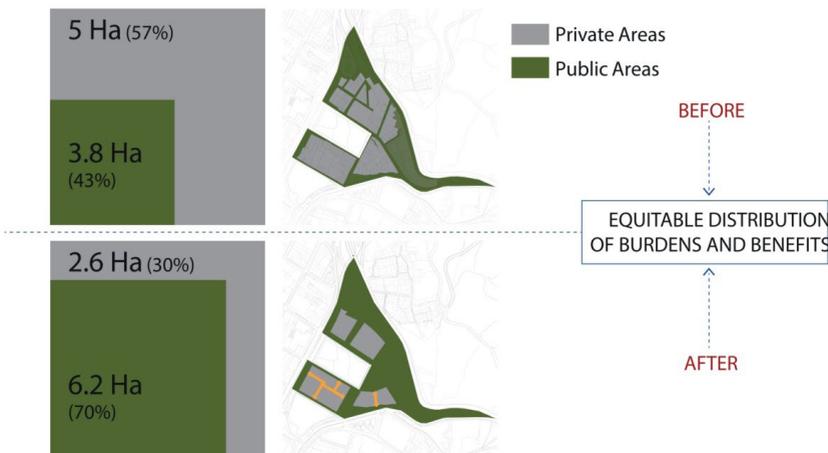
possible to extract lessons and learning experiences for the processes of formulating urban renewal plans in the city. Also, the pilot project would be a laboratory for innovation on the way of presenting, discussing and negotiating a proposal with the community of the zone.

The form of work that the university proposed -- both with the community of the zone and with the city government -- was becoming a clear reference point in the city. As a result, the legitimacy of the process and of the project increased considerably. It can be said that this strategy of working with key actors outside of the requirements of the administrative process contributed substantially to legitimizing the process and to strengthening bonds of trust and cooperation among the different stakeholders, under the clear articulation and coordination of the team from the university.

### Urban Design and Financial Proposal

The final urban proposal resulting from the discussions with neighborhood actors and city authorities provided a new reconfiguration of the public and private space, increasing public areas from 3.8 hectares to 6.2 hectares, and reducing private areas from 5.0 hectares to 2.6 hectares as illustrated in the following figure.

**Figure 9: Public/Private Space of the Urban Proposal**



**Figure 10: Urban Design Approved Proposal**

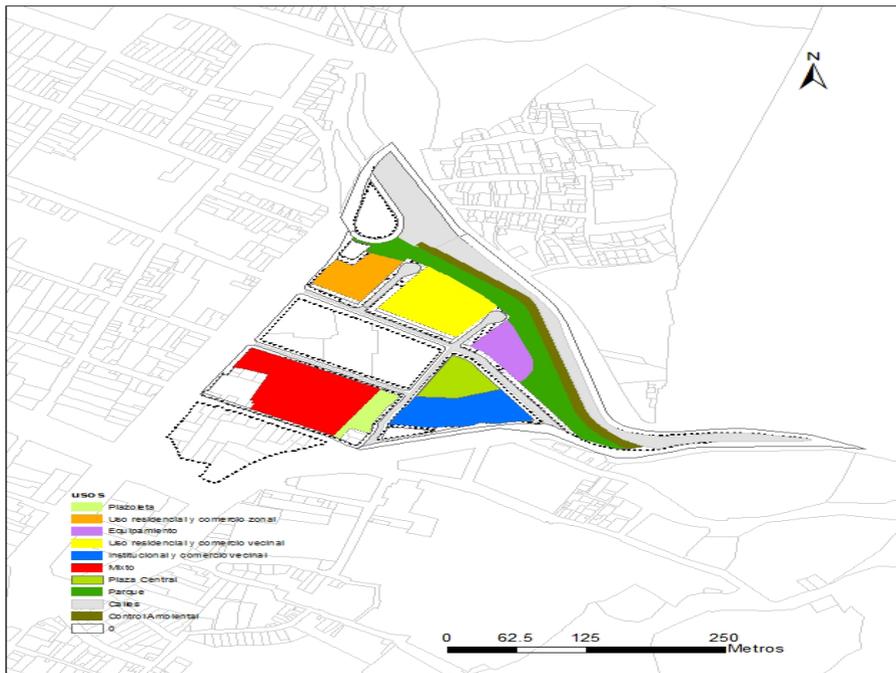


The urban design (above) recognized the most sensitive and strategic topics that resulted from the participatory urban design workshops.

The urban proposal of this partial plan proposes a mixture of uses and the UAU integrates two or more uses. The proposal includes construction of: 1,603.13 square meters of neighborhood commerce; 4,732.20 square meters of zonal commerce;

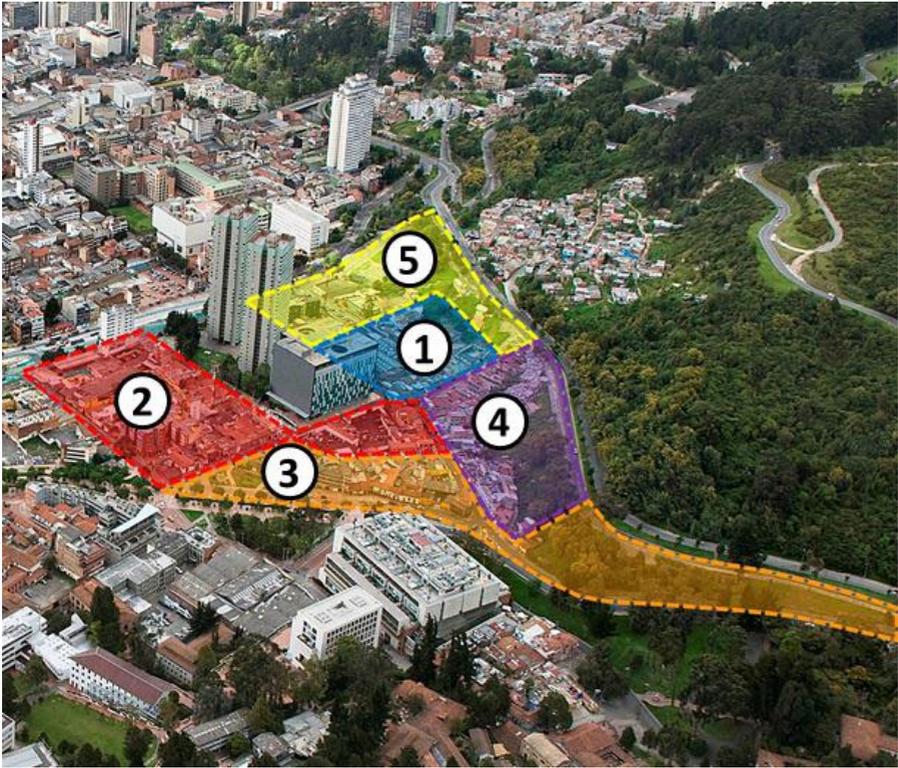
16,433.33 square meters of metropolitan commerce; 13,175.00 square meters of personal services; 22,950.00 square meters of entrepreneurial services; 67,942.13 square meters of housing; and 21,675.00 square meters of metropolitan social or educational infrastructure (figure below).

**Figure 11: Planned Types of Land Use in the Fenicia Triangle Partial Plan**



The project will be financed through the sharing of burdens and benefits. The burdens are the infrastructure to be carried out in each stage, and the benefits consist of the development potential of each stage. Some UAUs have greater benefits (i.e., a greater degree of construction potential). Therefore, they will be the ones in charge of assuming the burdens of the UAUs that have insufficient financial capacity to pay their burdens. In this way, it is possible to finance the totality of the works of the plan.

Figure 12: Urban Action Units



In principle, the proposal states that for the purpose of facilitating integral management of the project and minimizing the need to move residents temporarily, the construction of all the replacement housing would be concentrated in the first phase of development. Despite the fact that the land readjustment proposed is not done among all the lots, but only in five areas grouped in an equal number of UAUs (see figure above), the initial idea was that the university would take charge of promoting the readjustment of lots in the first unit and of building all the corresponding housing. Unit 1 has few lots, and close to 50% of it consists of one large piece of property currently under industrial use. The dwellings in this unit would offer replacement housing to the owners in all the other Urban Action Units



and would thus free up the land needed to continue developing the remaining units. To facilitate the exchange of existing housing for new housing, the trusteeship scheme was designed to permit the remuneration of the owners (with one or more dwellings, depending on the size of their properties) for the readjustment that could be agreed outside of their own area and in Unit 1.

Despite the fact that this was based on the need to guarantee the construction of all replacement housing with minimal relocation, the proposal was not well received by different stakeholders. For many, concentrating all the replacement housing in a single area was unacceptable since this area is presently located in one of the sections inhabited by a low-income population with deficient urban surroundings. Their main grievance was that the replacement housing should be located throughout all the Urban Action Units of the project, thus permitting not only permanence within the area of the project but on the original block as well.

This rejection made it necessary to modify the proposal in the final phase of project approval in order to locate the replacement housing throughout the entire project area and in each one of its units. This situation demonstrated the importance of ensuring that the lot or building offered to each owner would be located as close as possible to the original property. The adjusted proposal includes the location of replacement housing in four of the five *urban action units*. There is only one unit with no replacement housing because that unit is designed solely for public facilities.

Yet there was still one part of the community that questioned the project and the process carried out thus far, and they organized themselves into a civic committee called *No se Tomen Las Aguas*. The committee was led by the property owners of one of the eight condominiums of multi-family housing that represented about 50% of the total number of properties and an important part of the population with the highest incomes and levels of education in the area. Despite having contact with them since the beginning, their relationship with the project was tense and pugnacious.

The committee organized demonstrations in the neighborhood and invited others to join them in vindicating their rights. They also contacted the mass media to make their activities and grievances known and pressured different agencies of the city government, especially the City Planning Secretariat, to address their concerns.



Their main complaint was that the project was imposed on them and designed only to suit the needs and expectations of the university.

As a measure to permit some final adjustments to the project, and as an incentive to achieve greater cooperation on the proposal, the City Planning Secretariat stipulated that the proposal could be adjusted, incorporating new agreements and consultations. In January 2014, under the mediation of the *Veeduría Distrital*, different actors of the community, especially the civic committee, opened new discussions and dialogues about the project.

To moderate the economic demands of the committee, the university spokespersons insisted on the argument about the effects, over the interests of other stakeholders, and the equity implications of giving the civic committee more benefits or having artificial distinctions between property owners in the land readjustment criteria. To discuss these points and their respective technical analysis, the committee decided to hire an external consultant with knowledge of architecture and city planning as well as processes of building construction to assist the project. Although the owners who eventually joined the committee had indicated, from the start of the conversations with the university, that they were going to consult a real estate expert, the consultancy was not arranged until the end of this stage. The consultant with knowledge of technical matters involved in the partial plan created more productive discussion and made it possible to have a more detailed analysis of the project. As a result, both the city government and the university decided that it was possible to revise some points of the project and agree on how they should be included in the act that would adopt the partial plan.

As a result of this exercise, on October 1st, 2014 the city government gave its final approval for the project. With this approval, it defined the basic rules of the project, specifying the duties and rights of the parties. Furthermore, the urban design of the project to be carried was also approved, including the streets, sidewalks, parks and plazas, the public equipment, and the city blocks.

The specific decree stipulated that the location of the replacement housing units could be in any one of the UAU of the project. In addition, the parties commit



themselves to continue the social programs that seek to support the different communities of the zone (the programs have different objectives: some promote entrepreneurship and productivity, while others provide support for the elderly or services for children). It was established that the project will provide legal counselling if the inhabitants require it, especially in cases where there are situations of informality or precariousness with respect to titles of ownership, in order to also protect the tenants and enable them to be treated in the same way as the owners.

On the one hand, it establishes that the replacement real estate units will have the same characteristics as those that are put up for sale. The constructed area of the current structures will be replaced meter-by-meter, while the area that has not yet been built will have a different modality. Finally, the owners will be offered preferential prices if they decide to acquire more meters or another real estate product.

On the other hand, the owners, the university and the city government must organize a government structure for decision-making in the project, with the participation of all the parties. The issuance of Decree 448 of 2014 -- on incentives for the owners for their participation in urban renewal processes -- was added to the approval of the plan. These regulations were clearly a complementary response to the demands of the community during the final process of consultation of the project. This included very sensitive topics that were not initially included in the approval of the project, such as the possibility of freezing the socioeconomic stratification of the units of replacement housing for 10 years, as a measure for neutralizing possible increases in the costs of living for families that remain in the urban renewal zones. In relation to households that live in rental housing, if they meet the requirements, they will be able to receive district subsidies for buying housing units within the same project (up to 30% of the subsidized housing units generated in the project will be able to be allocated to tenants).

Figure 13: Newspaper Covers from “Directo Fenicia” (2016)



One of the lessons the university has learned from the process of formulating this partial plan, with respect to participation in urban renewal processes, has been of the importance of generating direct and accessible means of communication with the community to inform and draw the original owners closer with the advances of the partial plan. Since the creation of a monthly newspaper called “*Directo Fenicia*” in October of 2014 (in the figure above), a bond of trust and credibility has developed between the owners and the *Progresia Fenicia* Project and the program. This has undoubtedly been a key mechanism not only for involving the owners and neighbors of the sector in the everyday happenings and the advances in the partial plan, but also for understanding and articulating the needs and expectations of the owners with respect to the proposals of the project.

## Land Readjustment Scheme: Rules and Criteria

In accordance with the proposal by the university, its role as the promoter of the project transcends real estate interests and instead aims to revitalize an urban area that includes the development and reinforcement of its social networks and the permanence of the residents with greater possibilities of economic growth and development. In order to guarantee the equitable distribution of costs and benefits and to facilitate associated management mechanisms among proprietors, the proposal states that land management will be done through five distinct UAUs that group blocks and lots as shown in the following figure and table.

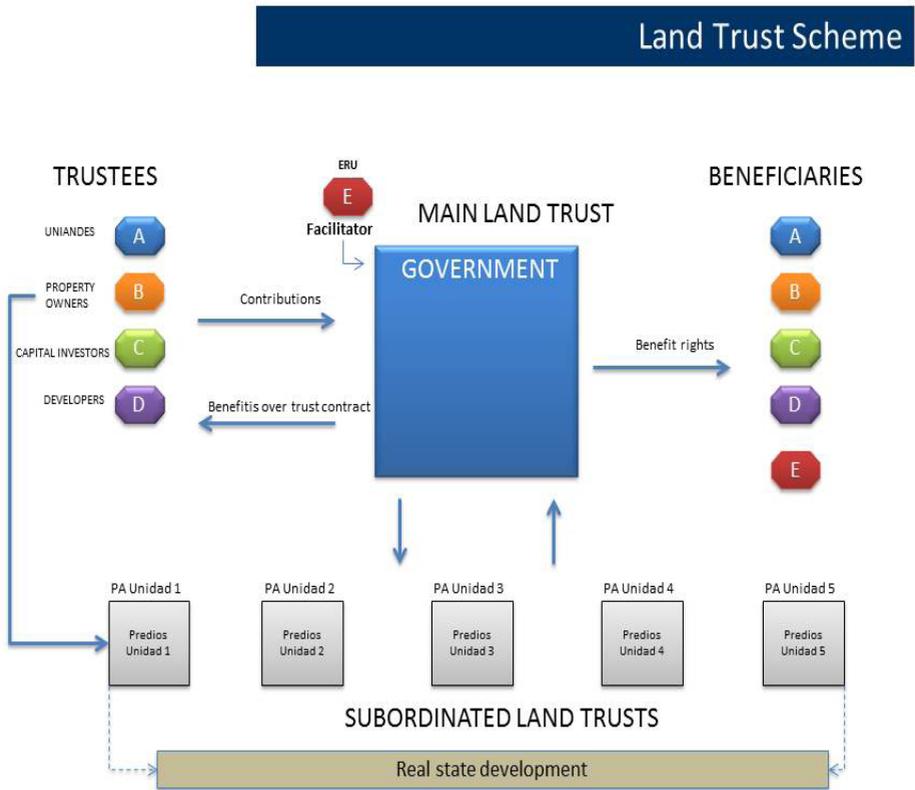
**Table 6: Areas and Composition of Urban Action Units Proposal**

UAU	Approximate private area (cadastral 2013 in square meters)	Current block number	Approximate number of single detached houses, apartments, and lots
UAU_01	6,332	13	15
UAU_02	13,864	4	224
UAU_03	8,717	26	49
UAU_04	12,773	24, 25	64
UAU_05	11,019	2, 12, 13, 38, 39	130
<b>Total</b>	<b>52,705</b>		

The purpose of the defined UAUs is to guarantee adequate use of the target area of the plan, a transformation in stages, and the provision of the infrastructure required for renewal. Despite that the transformation will be carried out in steps, the equitable distribution of costs and benefits will be shared among all the properties and owners involved. There will be a trusteeship in charge of regulating and finalizing this equitable distribution among all the units. It has been calculated that the overall land contribution ratio in the land readjustment scheme will be around 50%.

The legal mechanism that will be used in the UAUs will be a commercial trust scheme (figure below) through which a principal land trust and five land trusts (one for each UAU) subordinate to it are constituted; the real estate units of each UAU will be contributed into the subordinate trusts. The landowners, the project promoter, and the investors will all participate in this scheme, as well as the city government through the Urban Renewal Enterprise (ERU).

**Figure 14: Land Trust Scheme**



The trusteeship scheme permits the participating owners to become partners in the project and share its profits. The basic remuneration framework for the land readjustment scheme is based on the currently constructed area. In the project formulation stage, it became evident that one of the main concerns of the owners and apartment dwellers was with the possible decrease in the size of their constructed area. Despite the fact that there would be an increase in the value of their properties to compensate for the decrease in area, for them, this situation was not appealing because they did not want to modify their available private space.

Although the property owners in condominiums did not hold a decisive percentage of the land (7%), they are the majority in terms of the number of owners (representing 53% of the total). This situation, coupled with the need to make the offer of permanence in the area attractive to the greatest number of owners, led to the area-based readjustment scheme.

It is important to note that this area-based land readjustment scheme was the result of two circumstances that became clear during the formulation process. On one hand, there was a need to attract apartment owners to participate in the project. On the other hand, controversies and lawsuits could lead to changes in the definition of current market values of properties. Through the discussion with property owners, the scheme was changing from a value-based approach to area-based scheme (Table 7). The approach was deemed feasible after many financial tests and because of the proposed densification.

**Table 7: Land Readjustment Criteria**

Current property type	Exchange criteria	Exchange ratio	New unit type (use)
Apartments	Built area (m <sup>2</sup> )	1 square meter of new constructed area for 1 square meter of current constructed area.	Apartments (residential)
	Built area (m <sup>2</sup> )	1 square meter of new constructed area for 1 square meter of current constructed area.	Apartments (residential or business in commercial zone)
Houses	Unbuilt area (m <sup>2</sup> ).	0.5 to 0.7 square meter of the newly built area for 1 square meter of current area (depending on size and location).	Business units in commercial zone
Plots	Surface area (m <sup>2</sup> )	0.5 to 0.7 square meter of the newly built area for 1 square meter of current area (depending on size and location).	Business units in commercial zone



These replacement criteria apply both to those who are owners and those who are currently possessors (informal owners) and will become owners. One of the topics that was discussed and considered during the formulation of the project was that of protecting the tenants with the same rules that safeguard the owners.

According to the estimates made by the *Progresia Fenicia* Program, of the approximate total number of 500 property units, anywhere from 10 to 15% may be cases of informal property. Two types of situations have been defined within this group: (a) possessors of private goods that have had more than 10 years of possession, who may, through a judicial proceeding, clarify their titles of ownership; and (b) a group of about 25 families that are presently occupying an area of public property officially designated as public space.

For those who are in the first of these situations, the same conditions and rules apply as in the case of any owner. Such possessors must go through the appropriate judicial procedures to clarify their properties and obtain the official titles of ownership. For this group, the Program has signed an agreement with a foundation that offers free legal services to vulnerable communities so that this foundation can assist those who are interested in its services. The foundation has undertaken a consciousness-raising and dissemination campaign within the community regarding the rights and possibilities of those occupants of the zone whose ownership titles are somewhat informal or precarious.

The situation is different for those who are in the second category described above. According to the legal framework regarding property in Colombia, it is not possible for an informal owner to be recognized as an owner if the object that is subject to said possession is property of the state. Given this limitation, it is not possible for these stakeholders to be treated as “informal property owners.” For this reason, the program has taken steps to see that these families can be beneficiaries of housing subsidies so that they can become beneficiaries of the units of social housing that must be built by the project.

## Implementation of Urban Action Unit N°. 1

Based on the grounds and definitions established with the final approval of the Partial Plan towards the end of 2014, the university, as promoter, continued the process of dialogue with the community and the other actors from the city government in order to initiate the phase of implementation. At the beginning of September 2015, it officially requested the initiation of the administrative procedure of delimitation of the UAU1 of the project.

As result, in March 2016, the Bogota Mayor issued District Decree 146 of 2016, "*By means of which the Unidad de Actuación Urbanística No. 1 of the Partial Plan for Urban Renewal of Triángulo de Fenicia is delimited and declared a matter of Priority Development.*"

Therefore, the owners of the unit must agree the bases for their contribution and rules of readjustment, within a maximum time limit of six (6) months starting from May 10th, 2016.

Once this deadline has expired, and if in such case no agreement among all property owners has been reached, the promoter of the partial plan will have to inform the *Empresa de Renovación y Desarrollo Urbano de Bogotá* regarding the acceptance and agreement of the owners with respect to the execution of the UAU, in order to determine the applicable mechanism for acquiring the property units of reluctant owners and proceed with the processes of compulsory acquisition or administrative expropriation, in accordance with the provisions of Chapters VI and VII of Act 388 of 1997, in order to ensure the land readjustment of this unit. In both cases, the property units acquired will be able to form part of the managing body and will be incorporated into the trust scheme structured for the development of UAU1.

The declaration of priority development of this unit legitimizes the work carried out over the course of several years and recognizes the intention of developing this zone of the city through an integral Project that will benefit not only the city but also the owners. In this sense, the objective of the declaration of priority development is: (a) to determine the priority development or construction of property units that will form UAUs, according to the priorities established in the Partial Plan; and (b) to recognize the collective interest in the execution of UAU1, in order to prioritize and execute the negotiation with the original owners of the fifteen property units of UAU1 (figure below).

Figure 15: Properties of Urban Action Unit No. 1.



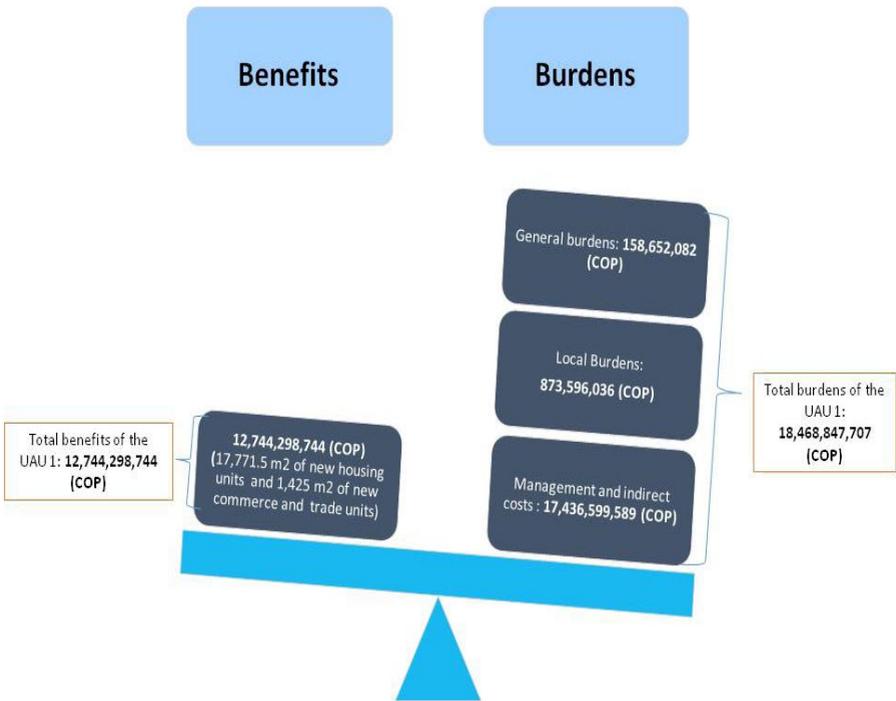
— Delimitación UAU 1

The process for establishing agreement among the property owners of UAU1 is currently under implementation, and it is intended to establish:

(a) *The implementation of the distribution system of burdens and benefits.*

UAU1 must assume 27% (18,468,847,707 Colombian pesos) of the Partial Plan's total burden (69,657,783,314 Colombian pesos), but it only receives 7% (12,744,298 Colombian pesos) of the benefits of the plan. Therefore, the missing 20% of the benefits will come from UAU2 or 5, which present a surplus of benefits. This will guarantee a balanced distribution of burdens and benefits in UAU1 (see figure below)

**Figure 16: Sharing of benefits and burdens of UAU No. 1: Triangle of Fenicia Partial Plan.**



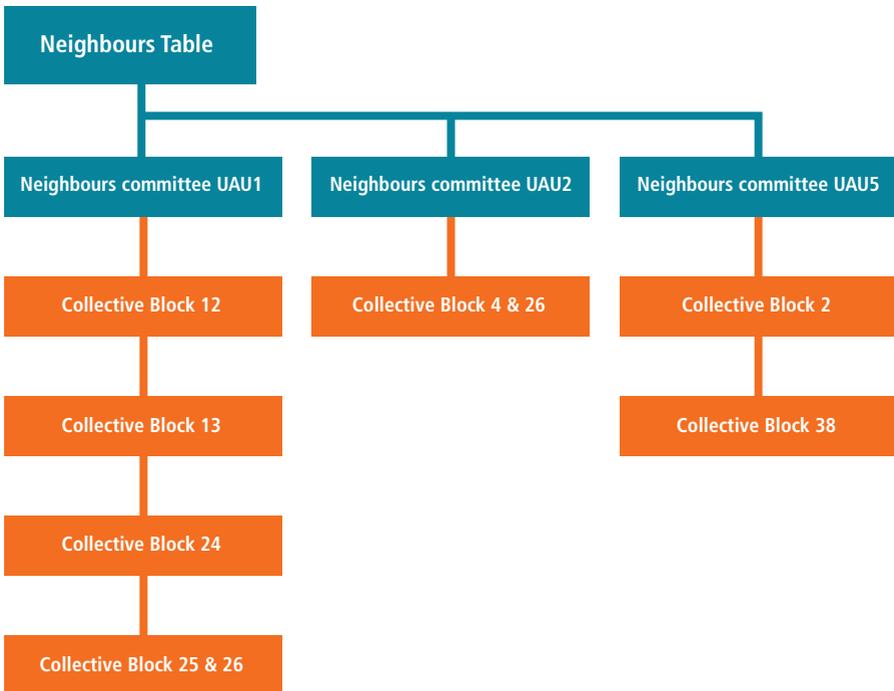
(b) *The mechanisms for linking owners to the Project and conditions for the restitution of contributions.* To guarantee the permanence of the original owners and possessors in the project area, as explained before, the Partial Plan defines the restitution criteria and conditions for the different types of property currently found in the area. In this way, restitution of the contributions of the owners, *pro rata* by area, is guaranteed. The following table shows the scheme of restitution for each one of the property units that constitute UAU1 according to the Partial Plan rules and criteria.

**Table 8: Criteria Application for Each Owner in UAU No. 1**

Property Number	Current Use	Clasification by Decree	Current Land Area (m <sup>2</sup> )	Current Built Area (m <sup>2</sup> )	Flat Total Area (m <sup>2</sup> )	Commerce TotalArea (m <sup>2</sup> )	Restitution Area (m <sup>2</sup> )
1	Housing + comercial use	Productive Housing	76,7	177,6	158	20	178
2	Housing + Motorcycle parking	Productive Housing	88,2	88,2	50	40	90
3	Housing + comercial use	Productive Housing	215,9	193,1	193,1	20	213,1
4	Housing + comercial use	Productive Housing	196	180,8	116	80	196
5	Housing + comercial use	Productive Housing	111,8	140,7	100,7	40	140,7
6	Industry + comercial use	Lot with strategic service	3177	3716,3	0	3280,4	3280,4
7	Parking lot + housing	Lot with service	959	224,8	224,8	367,1	591,9
13	Parking lot + housing	Lot with service	288	0	60	114	174
14	Housing + comercial use	Productive Housing	21,1	84	84		84
15	Parking lot	Lot with service	295,5	100	100	97,8	197,8
16	Housing	House Type 1	15	30,1	30,1		30,1
17	Parking lot	Lot with service	285,9	0		143	143
18	Housing + Motorcycle parking	Productive Housing	350	269,5	269,5	40	309,5
19	Housing	House type 1	59	59	59		59
20	Housing + comercial use	Productive housing	33	99	99		99

(c) *The governance scheme.* The project is committed to the participation and involvement of diverse actors. It requires that owners and occupants of the area, the university, the city government and the investors create both informal and formal institutions for building consensus and making decisions. To facilitate and implement these principles, a governance proposal has been designed to determine how the different interest groups and actors will interrelate and communicate with each other. It is based on the creation of diverse workshops, each one with different representatives and objectives, as well as specific assigned functions (Figure xx 14). The governance scheme should initiate its functioning in the implementation of UAU1 through the establishment of the first governance body: the Collective of Block No. 13.

**Figure 17: Fenicia Triangle Partial Plan, Coordination and Participation Scheme Among Owners**



This proposed structure is intended to:

- serve as support and bridge for participation, communication and exchange of information among the different actors;
- create formal bodies in charge of supervising the project with representatives from different interest groups, including the promoter of the project (Los Andes University), the owners and the capital investors;
- establish rules for the nomination and election of the different representatives who will be part of the different bodies within the structure; and
- establish the rules for decision making during the development of the project.

The main purpose of the *Neighborhood Committees* will be to present, before the trust scheme and the coordination of the project, the fulfillment of the requirements and the affairs of the property unit contributors and to supervise the development of the different units' readjustment. On the other hand, the *Collective of Block*, which will be composed of the owners of each UAU, will have the main objective of advising and providing technical assistance to the property owners of the block during the readjustment process and in the supervision of the materials and specifications of the replacement units and defining the rules and criteria to select those units' location within the new blocks and buildings.

Additionally, a general discussion and information forum was proposed for participation among all the owners: *The Neighbors Table*, which would be composed of representatives of each one of the neighbors' committees.

### **Negotiation Process and Present Status**

Los Andes University, as promoter in the terms defined by District Decree 420 of 2014, has made overtures to the owners of the different property units that make up UAU1 to encourage their involvement in developing the Partial Plan in accordance with the rules and criteria established in Articles 47 and 48 of the above-mentioned decree. In this way, the promoter and the owner(s) have maintained an agenda of meetings and conversations during the past few months in order to define and specify the conditions of linkage to the development of the Partial Plan.

Los Andes University also held meetings with the owners from the UAU1 of the *Triángulo de Fenicia* Partial Plan, in order to present and exchange views on the bases of action for this first unit (Figure 18). During those general meetings, the University presented the scope of the bases of action, the distribution of uses and areas for the unit, the management scheme and structure of government, the mechanisms for the linkage of owners, and conditions for the restitution of owners' contributions.

**Figure 18: Meetings with the Owners of UAU1**



As a result of the discussion process, the vast majority of owners (representing around 90% of the area) have declared their intent to participate in the unit implementation and have already signed a special document in which they agree to commit themselves to moving forward and contributing their property to the trust scheme within the next several months.

Likewise, during the second general meeting, the owners elected their two representatives for the Neighbors' Committee and agreed to start building the governance structure according to the University proposal. Those representatives will be the permanent link between the project staff and the different owners and will have room to follow the development of the Unit and to discuss and supervise the establishment of the trust contract.



There are three cases of property owners who have not agreed to the bases for action. One case concerns a property owner who has not been contactable. Even though the project has the name and address, nobody lives on the plot and none of the neighbors know the person. The other cases concern two small property units owned by multiple persons from the same family; these family members have experienced internal disputes and some of the members have not signed the agreement document.

Due to those cases, and taking into account the deadline for the final agreement, the University has initiated conversations with the local government agency (*Empresa de Renovación Urbana*) in charge of the use of expropriation in cases of reluctance to participate in the land readjustment. To proceed with expropriation with respect to the reluctant owners, so that those properties can be contributed to the trust scheme, it will be necessary to have a signed agreement between this agency and the University. In this context, the use of expropriation clearly will be a tool to avoid blocking the process due to a minority of reluctant land owners. It will legitimize the use of this compulsory mechanism and will serve as a means to guarantee the readjustment feasibility.

## Conclusion

Although this project is still under implementation, its progress so far already offers some valuable lessons. The project has had great influence over urban renewal projects and policy in Bogotá and illustrates how implementing a land readjustment process is a matter of coordination, cooperation and trust building among diverse and sometimes antagonist stakeholders.

The *Fenicia* project has demonstrated the usefulness of pilot projects in advancing the implementation of land readjustment projects and has contributed to establishing some concrete means to facilitate the implementation of urban redevelopment projects in Bogotá. As a result of this project's formulation and negotiation, the city government adopted a new regulatory framework to incentivize engagement of communities and property owners in the urban renewal processes, taking into account some of the demands and concerns of current dwellers of the area project. This project was undertaken by different stakeholders (city government, heads of the university, developers) as a laboratory to acquire experience and knowledge about more inclusive and participatory land management tools.



For many of the public agencies involved in the discussion and approval process (e.g., regarding issues such as: planning, traffic and mobility, architecture preservation, public space, etc), this project has presented a unique case in which it is possible to test and discuss new forms and innovations for urban development projects. This project has gained reputation and legitimacy not only among current dwellers but also among city officials, social movements and scholars. It is no longer possible to discuss the urban renewal processes in Bogota without taking into account the impact of this project.

The project experiences show just how comprehensive the trust-building process must be for a pilot of an innovative land readjustment project. It is not enough to persuade the land owners and developers and private investors, it is necessary to have the support of public officials and agencies as well. So far, the project has had to interact with four different mayors and their directive staff and has had to maintain interest in and confidence about the project. Compared to other efforts to date, this private urban renewal initiative has generated, by far, the most interest and compromise from the local authorities.

The role of the University as promoter has been crucial in the trust building process. The presence of organizations that can reduce fear, resistance, and distrust among private landowners may create favorable conditions for cooperation between the public and private sectors. Traditionally, the government and private interests initiate land readjustment. In the *Fenicia* case, there was suspicion among the community of the motives of these actors. For this reason, an organization such as a university was more suitable for engendering greater openness and reciprocity between stakeholders.

Although there was no cohesive community organization in the area at the beginning of the project, the process seems to have influenced new forms of organization and leadership that are conducive to land readjustment. The project experience suggests that the process of designing and managing an urban project through land readjustment may actually help nurture strong organizations and leadership within a community. This process has shown how land readjustment can be a favorable scenario for motivating and promoting grassroots participation. To accomplish that, it has been necessary to have a wide range of participation channels such as: participatory design workshops, consultation meetings, periodicals and annual events about progress and evolution of the project, a monthly newspaper and an information point outside the University Campus and within the neighborhood.

Developing the process of formulation and agreement in this project revealed the need to improve and intensify community participation after the plan had been approved and the project entered the implementation stage. The existence of a formal structure for permanent communication and supervision, with representation of all actors, is a clear way to advance new forms of urban governance and to contribute to the creation of trust and consensus that are essential for land readjustment.

This project experience has shown that during the design/formulation and trust-building phase, negotiation and efforts to reach agreements among actors, addressing all the issues and concerns that arise, is fundamental to the viability of a project. The complexity of reaching agreements among a great number of property owners points to the importance of incentives for doing so. For example, in the implementation of UAU1, the importance of such incentives is clear: offering an advantageous agreement and having the deadline to agree with the basis and conditions to develop the Unit have been very useful to incentive property owners to reach an agreement (rather than face expropriation in case of reluctance).

So far, implementation has focused on UAU1 as the pilot and first phase of five. UAU1 was selected as the first phase because it involves a relatively small number of property units and property owners. The results and outcomes of UAU1's implementation will set an example for the rest of the units. If the development stage of this UAU works as well as it has worked during the discussion and definition of the bases for action, it will facilitate progressing through the rest of the project and will serve as a concrete example of the advantages of the management scheme.



### III. COOPERATION BETWEEN PARTICIPANTS

It can be said that on only very few occasions there has been an effective participation of communities in urban action unit and land readjustment projects. This demonstrates that one of the fundamental principles of land readjustment – the voluntary participation of landowners – has been very difficult to achieve. Therefore, it must be stated that the objective of the tool called “cooperation between participants” is to facilitate and guarantee the equitable distribution of benefits and burdens between landowners. It is applied when a new lot/property configuration is not needed for the development of UAU and the benefits derived from this development can be distributed equitably between land owners. (Act 9/89 Arts. 25,77 and 78 – Act 388/97 Arts. 45, 46 and 47).

The Juan Bobo experience in Medellín, which was detailed in chapter 3 as a case study for neighborhood betterment programs, had a highly successful experience of real-state integration and re-densification because of the cooperation between land owners, and institutions administering the project.

### IV. MECHANISMS TO PREVENT LAND SPECULATION

#### a. Freezing of Land Prices through Project Announcement

The Project Announcement tool (*Anuncio de proyecto*) stipulates that by the time a project is publicly announced, the land price is already set using “reference appraisal”, to later deduct the market increase of the land value, and follow a coherent process of land value sharing (originally in Law 388/97, Art. 61, regulated by Decree 1077 of 2015). Freezing of land prices through Project Announcement provides for the independent valuation of the properties in a given project area as a means of:

- Calculating the additional value generated by the project;
- Assessing the amount of any compulsory acquisition that might be paid; and,
- Quantifying the value of the land contributed by owners for any burden and benefit calculations resulting from land readjustment processes



The valuation resulting from the Project Announcement is undertaken immediately following the announcement. To avoid any delay, it is important to prepare for the use of this land management tool before a PILaR site is announced. This would include any preparations for the issuing of the Decree, as well as more practical matters, such as identifying the valuers, preparing the terms of reference and planning the modalities of the enumeration.

### **b. Right of First Refusal**

The Right of First Refusal (*Derecho de preferencia*), also called the Preemption Right, was established by the POT to control land transactions by allowing the Municipality to assert a right of first refusal where any land in a project area is offered for sale. Municipalities or the municipalities' land banks are allowed to impose on any property an obligation that in case the property owner decides to sell it, they must offer it to the municipality or to the land bank as the first option. Experts find that it is a useful deterrent to land speculation. Right of First Refusal is regulated on Law 9 of 1989, Articles 70 to 75. This tool is created in favor of Land Banks, allowing them the possibility to establish the right over an area that has been designated by land use regulations for any of the following purposes:

- Execution of social housing programs.
- Constitution of reserve areas for urban expansion.
- Constitution of reserve areas for environmental protection.
- Relocation of human settlements located on high risk locations.

The steps to implement this tool are the following:

- A motivated act of the director, manager or head of the Land Bank with the previously approval of the board, identifying precisely the parcels on which the right is going to be applied.
- This act should be registered in the Land Registration document of the parcel.
- With this annotation, it is possible to register any title transferring ownership

of the parcel unless it had been offered to the Land Bank and it does not use its right.

- The Land Bank has a 3-month term to accept the offer and an additional 6-month term, in case it uses its right, to formalize the transaction.

Land Banks have the possibility to apply this right to any lot or real estate included by the POT in specific areas or operations in the city. By this right, owners who have the intention to sell the respective lot or real estate must in the first place and just once, offer the lot to a Land Bank (Initially included in Article 73, Law 9/1989 - Law 388/97, art. 119).

The first application of this tool in a PP project corresponds to “Operation Nuevo Usme” in Bogotá, applied by the city’s Land Bank; Metrovivienda. Colombian law allows public entities to include this tool in a real-estate registration to officially incorporate the procedure in a lots or real-estate history. Since the State is not obliged to buy the lots registered with pre-emption right, this allowed decision-makers like Metrovivienda to apply it without major limitations.

### **c. Declaration of Priority Development**

The declaration of priority development is a land management instrument that seeks to discourage the speculative retention of land by allowing the local governments in Colombia to impose on land owners the duty to urbanize and/or to build on their land in terms ranging between two and five years. If the owners breach their duties, the land can be subject to forced public auction. It can be used when the development or construction of a specific piece of land or real estate is determined to be of public use according to dispositions set by the municipalities POT (Law 388/97 Arts. 40, 44, 52, 53 and 54).

Priority development was applied for the first time in Bogotá for vacant areas under development treatment. This tool is intended to force the landowners to make use of the corresponding urban norms and make effective use of it within a period of no more than 3 years. If this condition is not met, the land can be auctioned until the base price meets 85% of the cadastral value (non-commercial). Some Partial Plans have applied this tool to Urban Action Units in order to boost land supply and avoid its retention once the urban norm has been approved (when the PP is presented and approved). One particular case of non-development after the approval of urban



norms for land readjustment projects corresponds to the municipality of Pereira. Urban norms have been approved for approximately 700 Ha in development-type Partial Plans, but only 70 have been fully developed.

#### **d. Reference Appraisal**

Because very few municipalities have their own cadasters, most depend on periodic updates, resulting in a lack of coherent land market information. The municipal budget system, and the subsidy system, has had negative impacts on local administrations' fiscal dynamics, as most have not incorporated property tax as a mechanism to finance urban development. This also has an impact on the land value capture mechanism, as the lack of updated information has generally meant that public projects pay for land at higher prices than they should. To change this phenomenon, in Partial Plan projects, "reference appraisals" have been corresponding with the "project announcement" tool. Administrative acts order appraisers to not include the land value increase expectation generated by infrastructure works or by urban norm in the commercial appraisal. This tool was used for the very first time in 2004 for "Operation Nuevo Usme" in Bogotá by Metrovivienda. Due to its success, it has been widely used by the national government for Macroprojects. The tool has been very useful to control land speculation and show the land value increase by the effect of urban norms and as a basis for land value capture.

## **V. VOLUNTARY DISPOSITION**

Voluntary disposition defines the voluntary sale of real estate to the State, when required for the development of a specific project. (Act 9/89 Arts. 9, 13, 14, 16 and 17 – Act 388/97 Arts. 58 through 62). For example, land readjustment projects in urban action units are intended to be implemented under the voluntary disposition of landowners, as they require 51% prior consent of landowners. The remaining land owners can be incorporated into the redevelopment project with the following, eminent domain tool.

## VI. EXPROPRIATION (EMINENT DOMAIN)

Expropriation, also called eminent domain, is the obligated sale of a lot, imposed upon the landowner by municipal authorities through motivated resolution. This applies to real estate that has been declared of ‘public need’ or ‘social interest’ as well as to land which is part of a UAU. It also applies to areas in urban or expansion land that have been declared for ‘priority development’ or to real estate or lots that are part of a UAU and denies being part of the 51% majority that approves its execution. Judicial Expropriation allows the State to acquire real estate, either for itself or for a third party, when the transfer cannot be negotiated through voluntary disposition. The real estate must have been declared of public need by the municipal POT and the municipal Development Plan.

Expropriation was detailed in Act 388/97 Articles 52 through 57 and is now regulated through Decree 1077 of 2015. Articles 58-59 of the Constitution of 1991 also established that expropriation could take place by judicial or administrative means, against the principle of private property, without prior compensation, and based on public utility or the cause for social interest, as it is defined by law.

Expropriation through administrative channels allows the State to acquire real estate when there are urgent conditions or ‘public use-reasons’ that condone its acquisition, according to the State’s criteria. Such ‘public need reasons’ must be aligned with the municipality’s POT and Development Plan. The project “Operation Nuevo Usme” in Bogotá carried out the first expropriation through administrative channels, claiming a public need to adapt land for social housing projects.

Expropriation has not proved to be an expeditious nor effective method in the field of land management. The threat of expropriation at an initial (rural) value has generated much resistance by landowners. In addition, the lack of transparency that exists on land registration issues, especially on rural-urban borders, means that processes can easily be hampered by the resistant owners who are, traditionally, informal developers.

## VII. REGULARIZATION

The regularization procedure (*Proceso de Legalización*) is defined by the Decree 1077 of 2015 as the process by which a municipality recognizes the existence of a social housing settlement made before June 27, 2003, and issues urban planning regulations to incorporate the settlement into the urban perimeter, thus allowing for plans and public investments. The recognition serves as a development license (*licencia de urbanización*) for the settlement, according to the existing building structure. Decree 1077 declares that the regularization recognition does not imply the legalization of property rights in favor of any holders. In that sense, even though this procedure implies an urban planning recognition, it does not solve property and tenure rights problems within the area.

The approval of this procedure depends on the fulfilment of the steps and requirements defined in Decree 1077 of 2015:

- The initiative to propose the procedure (directly by the municipality or upon request of the community or the land owners).
- The minimum content on the request and its annexes.
- The scope of the urban study.
- The administrative process.

Regularization can relate to a land readjustment project. Law 388 of 1997 details land readjustment as a way to develop a partial plan because compulsory land readjustment only can be imposed through an urban action unit (UAU) and a UAU only can be defined by a partial plan. According to Article 41 of Law 388, UAU delimitation should be made by the competent authorities directly or requested by private stakeholders, in accordance with the parameters established in the POT and if there is an approved PP. Law 388 also establishes in Article 39 that UAUs could be applied in urban land defined for urban renewal or redevelopment. It does not mention the possibility to apply the regularization tool for urban upgrading.

A regularization project could eventually coexist with a PP if the zone is qualified in the POT with an “urban renewal treatment” and not with an upgrading treatment. For example, Medellín’s POT defines that PPs could be used in urban land only for that purpose. Moreover, Medellín’s POT states that the regularization procedure must be applied in sites identified as “upgrade zones,” named in the POT as “*tratamiento de mejoramiento*”. In the case of La Candelaria the approval was made by Resolution No. 44 of 2007 and its regulation defined the norms and parameters of land use and constructions. In this case the plan needed adjustments and shifts to allow the new project to take place, so it had to be modified according to the new structure and size and shape of the plots. This process also defined the system for distributing the burdens and benefits of the project and the obligations for land owners.



Stakeholder participation encourages community ownership of urban redevelopment. © UN-Habitat

## ENDNOTES

74. Source: Pinto, A. (2005).
75. Source: Juan Felipe Pinilla, based on Law 388 of 1997.
76. Act 9 1989 - articles 25, 77, 78 and Act 388 1997 - articles 45, 46 and 47.
77. Although the LDT includes Partial Plans as the only intermediate planning tools, local administration making use of their political and administration autonomy, have introduced different intermediate scale planning tools that complement the contents of POTS.
78. It is important to mention that Colombian legislation created a different name for land readjustment when this takes place in renovation areas within the urban limits called Real-Estate Integration.
79. This will be further explained in this section.
80. UN-Habitat, no date, Participatory and Inclusive Land Readjustment, Nairobi, Kenya: UN-Habitat. See also UN-Habitat.org, 2013, "The City of Medellín and UN-Habitat pilot inclusive land readjustment", <http://www.unhabitat.org/content.asp?cid=12137&catid=7&typeid=6>.
81. The description of the site, its current use and projected redevelopment are taken from Mayor of Medellín (2007). "RESOLUCIÓN No. 442 'Por la cual se legaliza y se regulariza urbanísticamente el Sector La Candelaria ubicado en el polígono Z2 – MI – 11.'"
82. Prepared by Juan Felipe Pinilla with support from Laura Moreno; based on a chapter for an edited book titled Land Readjustment and Governance in Developing Countries, edited by Yu-Hung Hong and Julia Tierney and supported by UN-Habitat. Mansha Chen and Mara Baranson from the World Bank edited the paper.
83. Currently, Los Andes University owns only nine properties in the area (less than 2% of the total of private properties).
84. Manzana 5 is a public-initiative project with the objective of building a Spanish Cultural Center in the traditional center of Bogotá. The land management process took place between 2005 and 2007, after which the city waited for the Agencia Española Manzana de Cooperación (Spanish Cooperation Agency) to realize its contributions and disburse the resources for construction. However, the project was delayed for more than six years and the Spanish government withdrew from the agreement in 2012 due to its own economic crisis. Since 2010, the owners whose property was expropriated have presented legal and administrative appeals that seek to have their property returned, arguing that the maximum legal time limits for the effective realization of the project had passed. These appeals have not been successful, however, and none of the expropriation proceedings have been annulled (Pinilla, 2015).
85. Proscenio is a partial plan of private initiative adopted in 2010 that seeks to develop a cultural center and offer a series of associated services in a strategic area in northern Bogotá. The fundamental dilemma with Proscenio has been that its promoters have used the rules of the game in a mistaken way: the investors and the promoting group managed to consolidate the ownership of around 53% of the area, but without participation of owners (Pinilla, 2015).
86. Source: Universidad de los Andes – Programa Progresia Fencia (2015).
87. The TSD is attached to the District Decree by means of which the Triángulo de Fencia Partial Plan was adopted.
88. Source: Decreto Distrital 420 de 2014 "Por medio del cual se adopta el Plan Parcial de Renovación Urbana 'Triángulo de Fencia,' ubicado en la Localidad de Santa Fe y se dictan otras disposiciones."
89. Source: Universidad de los Andes (2014).
90. Source: based on "La Gestión Asociada y sus mecanismos". En: De la renovación a la revitalización: Desafíos para Bogotá. Diciembre, 2015. p.204.
91. Source: Universidad de los Andes – Programa Progresia Fencia (2014).
92. Source: Universidad de los Ande – Programa Progresia Fencias (2014).
93. Ibidem.
94. Source: Juan Felipe Pinilla based on Decree 420 from 2014
95. Source: Documento Técnico de Saporte, from District Decree 420 from 2014
96. The Veeduría Distrital is an agency of the city government whose main mission is to promote transparency and prevent corruption in public management of the district. One of its objectives is to encourage citizens to exert control over the activities, programs and projects carried out by different city government agencies. For more information consult: [www.veeduriadistrital.gov.co](http://www.veeduriadistrital.gov.co).

## ENDNOTES

---

97. By means of District Decree 420 of 2014, which can be referenced through the following link: <http://www.alcaldia bogota.gov.co/sisjur/normas/Norma1.jsp?i=59572>
98. This decree can be referenced through the following link: <http://www.alcaldia bogota.gov.co/sisjur/normas/Norma1.jsp?i=59717>
99. Source: Universidad de los Andes – Programa Progresia Fenicia 2016.
100. Source: Universidad de los Andes – Programa Progresia Fenicia (2014).
101. Source: Juan Felipe Pinilla, based on Alianza Fiduciaria documents.
102. This refers to the Fundación Probono Colombia. Further information on this foundation can be referenced through the following link: [www.probono.org.co](http://www.probono.org.co)
103. The fifteen properties are numbered 1-7 and 13-20, as depicted in Figure xx and referenced in Table xx.
104. Source: based on Universidad de los Andes- Programa Progresia Fenicia. (2016).
105. Source: based on Universidad de los Andes- Programa Progresia Fenicia. (2016).
106. Source: Universidad de los Andes - Progresia Fenicia Program (2016). "Bases para la Actuación de la Unidad de Actuación Urbanística no. 1 Plan Parcial Triángulo de Fenicia."
107. Source: Ibidem.
108. Programa Progresia Fenicia.
109. Book 2, Part 2, Title 5, Chapter 4
110. Book 2, Part 2, Title 5, Chapter 4
111. Book 2, Part 2, Title 6, Chapter 5, Section 1
112. In this context this means low cost housing built by the owners without a building license. This low cost houses must be valued under this type of housing maximum value, which is 135 minimum salaries (Around 80 Colombian million pesos and around US 40.000).
113. No matter if it is built on public or private land.
114. In this case the specific regulation is defined in Resolución 442 de 2007. Those plans contains the approved basic structure of open spaces, private plots and risk zones. For the private plots it defines its specific building conditions and land uses. Those conditions must be applied for the recognition licenses "licencia de reconocimiento" of the current constructions. Once the regularization act is issued the occupants could also legalize their constructions.
115. Book 2, Part 2, Title 6, Chapter 5, Section 1
116. The correspondent part of the Article establishes: "El proyecto de delimitación se realizará por las autoridades competentes, de oficio, o por los particulares interesados, de acuerdo con los parámetros previstos en el plan de ordenamiento, siempre y cuando medie la formulación y aprobación del correspondiente plan parcial ..."
117. The correspondent part of the Article establishes: "Los planes de ordenamiento territorial podrán determinar que las actuaciones de urbanización y de construcción, en suelos urbanos y de expansión urbana y de construcción en tratamientos de renovación urbana y redesarrollo en suelo urbano se realice a través de unidades de actuación urbanística".
118. This treatment (tratamiento urbanístico) is defined and regulated in Article 243 of POT (Acuerdo 46 de 2006).



# URBAN FINANCIAL TOOLS

With the introduction of planning, land management and financial tools, local administrations have an important set of mechanisms to finance city building. However, the lack of specific regulations has resulted in difficulties when implementing and articulating different tools. Since 1997, very few projects have used and articulated the whole set of tools introduced by the LDT to adequately finance urban development. Through the planning and land management tools outlined in the previous chapters in combination with the financial tools of this chapter, cities in Colombia can promote equity and better distribute the benefits derived by and for urban development throughout the territory.

It is important to distinguish between municipal tools intended to regulate land use and land development from those tools intended to mobilize financial resources to enable local governments to deliver services and development public infrastructure. Land value sharing, for example, clearly fits into the revenue mobilization category, but all land value sharing tools must operate in and be coordinated with other land use regulations.

## I. LAND VALUE SHARING

The essence of the concept of land value sharing is that public actions, either through public investments or simply decisions taken by government, often result in increased private wealth as the value of privately held land increases in response to the public action. Simultaneously, the increased population and new developments at higher densities result in an increased demand for public services and infrastructure. Therefore, the argument has been made for over 150 years that some share of the “unearned” increment in private wealth generated by increasing land values should accrue to the public to help defray the cost of the needed infrastructure investments and improved services. Land value sharing tools are intended to achieve this purpose in a manner which is administratively effective, economically efficient and politically acceptable.



Consider, for example, the case of Medellín. Estimates indicate that the population of the city increased by over 14% between 2005 and 2013, but the land area of the city did not increase during this period. The increased demand for space that results from adding 300,000 people to the city means the general trend in land values overall has been increasing. Further, Medellín is similar to most cities in that it makes a concerted effort to rationalize and regulate land use patterns. But the city must constantly reevaluate land use regulation in response to changing demographic and market conditions. Should the city government agree to change the allowed density of development on a given plot of land, the commercial market value of that plot could change drastically overnight. At the same time, Medellín has made huge investments in public infrastructure in recent years. Many of these investments directly affected the value of adjacent properties, significantly enhancing the attractiveness and development value of the land. Note that in all three cases, the landowner made no direct investment or other change in the property that affected the land value. In each case, the increased value of the privately owned land was due to public action. In the first case of population change, the public action was not explicit and was very broadly based. In the other two cases, the city took explicit action to change the approved land use or make the infrastructure investment. But in each case the public action resulted in the creation of private wealth in the form of increased land values.

Thus, land value sharing is defined as the right given to municipalities to participate in the increase of land value that has resulted from administrative decisions and state interventions. This occurs when the POT changes land classification from rural to expansion, when land use in urban areas changes to a more profitable use, or when there is an increase in plot ratio rights given to a specific area of the city. (Originated in the Political Constitution - Arts.82, Act 388/97 -Arts. 73 through 90 and in the National Decree 1788/2004)

In addition, Colombian law regarding land and urban development codifies the principle of an “equitable distribution of the benefits and burdens generated by urban development” between private and public entities. There is no question that actions taken by government can affect the value of private land holdings, either positively or negatively. At the same time, private actions in the form of investment in land development can affect the burdens placed on urban services and therefore



the cost of municipal government. While it is also the case that public actions can reduce private land values in some instances, well developed tools for compensating private land owners for such negative impacts are relatively rare. In Colombia, the concept of an “equitable sharing of benefits and burdens” is interpreted to mean that some portion of private wealth created by public actions (as opposed to private investment) should be shared with local governments. And private developers should be asked to share in the cost of improved public services when the increased demand for those services is a byproduct of the developers’ investment decisions.

Law 388 of 1997 (*Ley de Desarrollo Territorial*) identifies the following financial tools which fit into this category of potential land value sharing tools and which are available to achieve this value-sharing policy goal:

- Capital gain sharing
- Betterment contributions or special assessments
- Developer exactions (urban obligations)
- Transferable development rights, and
- The annual tax on immovable property.

## a. Capital Gain Sharing

Capital gain sharing (*Participación en Plusvalías*) is an explicit attempt to implement land value sharing more broadly. Act 388 of 1997 requires local governments to adopt land use management plans (*Plan de Ordenamiento Territorial*, POT) for future development and adopt capital gain sharing as one of the main funding sources for the plan. Cities in Colombia are required by Act 388 to levy a charge that amounts to between 30 and 50% of the increment in land value created by public actions. Medellín city ordinances set the proportion at 30%.

Act 388 specifies that the public action that creates added land value may be a change that does not result in an expenditure for a specific public work. The basic notion is that as cities adopt development plans, they create land value as previously agricultural land is brought into the urban development sphere, or land use and densities for existing urban land are adjusted to accommodate future growth.



Medellín has yet to collect any revenue from this source. Other cities in Colombia have struggled as well and actual revenues from this source have generally been substantially below original estimates. Colombia's experience in this regard is similar to that in other countries. Attempts to capture significant percentages of private land value increases as a direct one-time charge have generally proven politically very difficult to sustain.

## b. Betterment Tax Contributions or Special Assessments

Betterment contributions or special assessments (*Contribución de Valorización*) are a direct tax that is used to recover the construction costs of public works. This charge is levied to the real estate lots benefited by the local public work benefits and can only be destined to the corresponding works (originated in Act 25/1921 (Art. 3) and the National Decree 1333/1986). The logic of betterment charges is that a public infrastructure investment or service improvement in a specific area benefits adjacent private landowners more than other, more distant, landowners. Implementation involves identifying the benefited land, assessing the relative benefit to each parcel, and assigning the cost of the public investment to each parcel based on the proportion of benefit received. Both in Colombia and elsewhere, betterment contributions are generally limited in scope to the recovery of the actual cost of the infrastructure or service improvement rather than value sharing in a broader or more extensive sense

Medellín is one of the Colombian cities that has successfully implemented betterment contributions to recover the costs of specific improvement projects. It is estimated that over fifty percent of Medellín's main road grid was paid for using betterment levies. Current law limits the revenue collected through this tool to the actual costs incurred for a specific project, plus a percentage for administration. As of 2013 Medellín had not received significant revenue from this tax for over ten years.

Betterment contributions were adopted early in the national legal system. The City Council of Medellín first issued regulations for this tax in 1938 in Ordinance 85. More recently, with the revision of the *Plan de Ordenamiento Territorial* (POT) in 2014, the basic guidelines for this tax were updated and the city council was given



authorization to issue a specific regulation. The Mayor was also authorized to create and regulate the betterment fund (*Fondo de Valorización* - FONVAL), an entity designated to collect the revenues from the tax. At the time of the POT's revision, the current law in force was Ordinance 21 of 1994, later updated by Ordinance 58 of 2008.

When considering the most recent local regulation, it is important to take special note of several key provisions. Article 1 specifies the legal nature of this tax as “the real estate obligation which falls on immovable property benefited or to be benefited from works of public interest within Medellín”. Article 3 provides a broad definition of the taxable event as “the implementation of a project, or a set of projects of public interest that provide a benefit to immovable property”. In addition, Articles 4 and 5 define the collection entity and taxpayer consistent with the general rule that real estate owners and holders benefited by the project are the main taxpayers. But Medellín has a distinctive feature in that the collection of the tax belongs to the FONVAL, according to Article 4 Ordinance 58, and not to the city council, as in other cities.

Montaña (2011) maintains that this is a special element of the Medellín regulation since, in general terms and according to Articles 317 and 388 of the 1991 Constitution, it is a function of the Local or District

Councils to define and impose the tax. Montaña emphasizes that Medellín's city council provides only general regulation of projects and the distribution system, authorizing the Mayor or FONVAL to define specific projects, and indicate the amount and collection method for the tax.

Another difference, identified by Borrero, O. et al. (2011), between Bogotá and Medellín is in the regulations concerning how the betterment contribution due is calculated. Borrero and co-authors note that in Bogotá, the tax due is calculated on the basis of *qualitative* criteria, taking into account not only the valuation of the real estate involved but also the improvement in municipal quality of life. In the words of the authors, “(...) in this methodology the amount of money attributed to benefit is not initially quantified, but it is determined by qualitative criteria which become—depending on the model of distribution adopted—a weighting factor to calculate the amount due per each property.” On the other hand, the tax



calculation methodology used in Medellín is *quantitative*, as long as an estimation of the market value of the immovable property has been done before and after the project to capture the capital gain or value increase.

This practice of valuing property before and after project completion as used in Medellín represents a more accurate and appropriate understanding of the nature and basis of the betterment tax. It also assumes the existence of an important technical ability to determine price increases on property resulting from public interventions, which can be very useful for other value sharing tools such as capital gain sharing. It should be noted again that the increment in private value due to the project is used only as a tool in allocating the share of project costs to each affected landowner

Finally, it is worth mentioning that, while Ordinance 64 of 2012, which regulates all tax revenues in Medellín, identifies the betterment contribution in Article 6 as a revenue source, the article does not provide implementing regulations nor detail the tax. This is unusual as other funding mechanisms are sufficiently specified and detailed in the regulation. We conclude that Ordinance 58 of 2008 mentioned previously is the legal standard which fully regulates the assessment and collection of the betterment levy within the city.

Although in the past, information has not been readily available to make clear the amount collected from the betterment contribution, in the current Municipal Development Plan, *Medellin un hogar para la vida 2012-2015*, the betterment tax is recognized as an unconventional funding source for the Plan and includes a list of projects previously decreed, as well as other projects yet to be funded through this mechanism.

Despite the lack of information about the betterment contribution weight as a tax in the municipal budget in recent years, Figure 1 shows the road infrastructure

funded in the past with this tool during the period from 1938 to 2000. The figure clearly shows the past scale and importance of the tax as a funding source for road infrastructure construction.

**Figure 1: Roadways funded by Betterment Contributions in Medellín, 1938-2000**

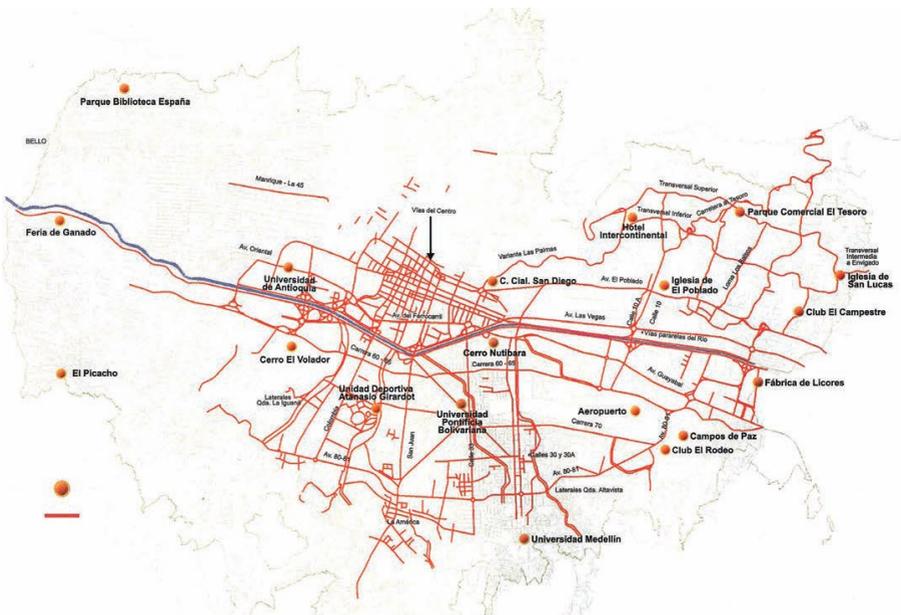


Table 1 also shows the importance of the betterment contribution during the decade of the 1980s. As a percentage of municipal tax revenues, betterment charges generated close to 30% of municipal revenues in some years and averaged 20% for most of the decade.

**Table 1. Betterment contribution as a percentage of total municipal tax revenues 1980-1990**

YEAR	BOGOTÁ	MEDELLÍN	CALI	ALL MUNICIPALITIES
1980	5.1	27.7	31.7	15.4
1981	5.1	25.9	32.4	14.9
1982	7.1	21.8	20.9	13.8
1983	13.5	27.5	18.0	17.3
1984	7.4	25.7	11.3	12.3
1985	8.9	20.2	12.7	10.6
1986	9.1	24.4	8.2	10.7
1987	8.	16.9	2.9	9.4
1988	3.1	9.7	1.5	5.3
1989	2.1	8.7	4.6	5.2
1990	1.4	4.6	8.9	5.2

It should be noted however, betterment charges have declined in importance in recent years. In fact, the public works outlined in the current city Development Plan (2012-2015), and which are to be funded through betterment charges, were also included on the previous Development Plan (2008-2011). Despite being adopted by the council, it was apparently not possible to clearly identify the land area affected by the projects, making it impossible to assess and collect the tax. According to the information gathered, the current development plan foresees a set of 24 projects, valued at approximately 450,000 Million COP (about US\$230 millions). As suggested in the photograph shown in Figure 2, the public is not always supportive of the use of betterment charges.

**Figure 2 - “No to the betterment levy of Oriente Tunnel. It is not our priority”. In the Medellín metropolitan area, a roadside sign shows dissatisfaction with plans to apply a betterment levy for the future tunnel that will connect Medellín with the international airport.**

---



### c. Developer Exactions (Urban Transfer Obligations)

Urban transfer obligations are exactions land owners incur at the beginning of the development or homebuilding process in accordance with the regulation specific to each district or city council. There are a large variety of such transfer obligations. The type used depends on the specific land use regulations for the area (zoning and urban status); they may consist of either land transfers for common areas, the development and equipping of such common areas (parks and green zones), or urban infrastructure (such as road infrastructure and public utilities); they may require mandatory cession of a determined percentage of land assigned to a certain purpose (social housing, for example); or they may utilize compensatory cash payments in lieu of any of these obligations.

Since the adoption of its first Land Use Plan (POT), Medellín has had a complete system of planning obligations or charges applicable for different urban planning or



building activities. In practice, any development project within the city initiates a set of urban obligations. The precise obligations in any given location depend on the location and applicable land use. The main innovation provided by Medellín since the first adoption of a POT is the expansion of transfer obligations to define urban redevelopment as distinct from new development.

In Colombia, urban transfer obligations were traditionally applied systematically to the land included in urban development projects, but not to increasing densities resulting from the transformation of the city on a plot by plot basis. This expansion of transfers in practice, now used in cities like Manizales and Bucaramanga and currently included in the revision of Bogotá POT, began in Medellín.

The modifications to the Medellín POT in 2006 changed the applicable standards used to define the urban transfer obligations in each city district and made an important change by introducing housing density in the calculation of the transfer obligation, as explained below. The current urban transfer obligation regime in Medellín, in accordance with Ordinance 46 of 2006, covers lands subject to Partial Plans and sets out the required transfer obligations in several categories.

For land included in a partial plan, either for new development, for redevelopment, or for urban expansion, transfer obligations include:

- Land transfers and construction of vehicular and pedestrian roads within the Plan.
- Construction of residential utility networks within the Plan.
- Land transfer and construction of parks, plazas or public squares in accordance with the proportions established for different plot sizes as regulated by Article 252 of the POT.
- Land transfer and construction of public facilities in accordance with the requirements of Article 252 of the POT.
- Assignment of a percentage of the project's usable area to social housing:
  - 20% for development land.
  - 10% for redevelopment or renewal land.

For urban land where land consolidation is intended to result in increased density and new building construction:

- Land transfers for parks, plazas and public squares in accordance with the requirements set forth for different sectors in Article 252 of the POT
- Land transfer for public facilities in proportion to the plot size as set forth for different sectors in Article 252 of the POT
- Construction of public facilities in accordance with Article 332 of the POT

The determination of land transfer obligations for parks and public facilities is regulated in article 252 which also defines the possible urban uses in each city sector, as indicated in the following table. The city is divided into six areas and 180 legal zones, and in each different uses are permitted and different transfer obligations required. As there are so many zones, Table 2 provides a few representative examples.

**Table 2: Table format from Medellín POT Article 252 outlining approved uses and transfer obligations**

City Sector	Approved Land Uses			Transfer Obligations		
	Density [Inhabitants per building]	Construction Index [Buildable land area as a proportion of total plot size]	Maximum number of floors	Square meters per Inhabitant	Square meters per 100 sq. meters of other uses	% Minimum Net Area
ZN1_CN1_2	230		4	3.0	7	18
Z1_CN2_7	270	3.00		3.0	7	18
Z2_RED_31	350	3.40		4.0	10	18
Z2_RED_26	300		4	2.0	5	0
Z4_CN1_12	350	3.40		5.6	20	18
Z6_D_5	170	1.40		5.6	20	18

Source: Compiled from the POT of Medellín



In addition, POT Article 332 sets forth the method for calculating the obligation for public facilities construction. The allowable built areas are outlined in the construction index at the end of the Article. The Article then introduces an example to illustrate how project obligations are determined for land transfer associated with residential use, commercial use, the land transfer requirement for public facilities.

Article 327 sets out the options available to land owners and developers to meet the urban land transfer obligation for developments not subject to a Partial Plan. First, developers may transfer land at the location of the development provided the area to be transferred corresponds to and integrates with the city's system of public spaces and facilities as defined in the current plan or subsequent revisions. If not at the development site, land may also be transferred in areas designated by the city for Public Space and Facilities.

When the property to be developed does not include land that can be integrated into the city's public space infrastructure, the transfer obligation can be met through a cash payment with the resources to be allocated according to the Article "Allotment of cash generated by transfer obligation compensation." Part of these proceeds are to be earmarked for the equitable creation of new public spaces as outlined in the Article "Power to regulate areas of distribution." The remaining money will be invested in areas of the city with the greatest need, as determined by technical research, as well as areas under land registration and legalization processes. The Mayor is authorized to regulate the allocation of these resources, while the valuation of real estate and equivalent cash amounts for all purposes under Article 327 is to be determined by the Ministry of Finance based on homogeneous geo-economic zones.

According to information provided by the Medellín government through June 30 2011, the revenue related to these exactions totaled about 115,385 million COP (approximately US\$58.7 million). Table 3 shows the collection for each year.

The final amount is meaningful in two ways. First, it implies that annual revenues are averaging about 23,000 Million COP (approximately US\$11.7 million), a significant annual contribution to the city's urban infrastructure. At the same time, the total is not far from the total revenues collected by Bogotá – with a real estate activity 4 or 5 times larger – through 10 years of implementing *capital gain sharing*, expected to total about US\$70 million through 2013. While developer exactions and transfers represent a very different theoretical approach to land value sharing than capital gain sharing, the point here is these exactions as implemented in Medellín have

been at least as successful in raising revenue for city infrastructure as capital gain sharing has been in Bogotá, a much larger city with a more active real estate market.

**Table 3. Revenue (COP) from urban obligations (developer exactions) in Medellín 2007- 2011**

Year	For land for public spaces and facilities effective	For facilities construction	Total Collection
30 June 2006 - 30 June 2007	9,041,615,169	3,278,340,096	12,319,955,265
30 June 2007 - 30 June 2008	20,138,463,509	1,323,794,214	21,462,257,723
30 June 2008 - 30 June 2009	25,601,097,754	6,278,059,125	31,879,156,879
30 June 2009 - 30 June 2010	23,314,742,905	4,591,264,467	27,906,007,372
30 June 2010 - 30 June 2011	18,244,795,121	3,572,772,658	21,817,567,779
Total	96,340,714,458	19,044,230,560	115,384,945,018

Source: Taller del Espacio Público- Departamento Administrativo de Planeación. 2012

It is important to note that the total shown only reflects the revenues collected from urban transfer obligation cash payments without taking into account the green zones areas and facilities transferred to the city in cases where developers chose to fulfill their duty *on site*. A full report of the performance of this tool would include the value of those areas as well. They are omitted here because this information is not updated and is not available from the regular monitoring of this tool carried out by the Planning Department.

The main virtue of these developer exactions or urban transfer obligations, at least regarding the compensatory payment in cash, is that they clearly represent a new funding source for the construction of public spaces and facilities which is usually lacking at the local level on this scale. Just as relevant is that new clear rules and criteria have been generated for the whole process including

- Calculation method
- Assessment procedures
- Budgetary and accounting tools for the management and investment of the resources
- Criteria for an equitable distribution of the resources within the whole city
- Mechanisms for the prioritization and monitoring of the selected plots



The City of Medellín's POT establishes the manner in which the city administers the revenue generated through developer exactions or urban transfer obligations. The POT also defines the way in which resources from compensatory payments and planning obligations should be administered, and directs that it should be done through a fund-type accounting method with the budget managed by the Ministry of Finance. It also states that the annual investment plans should include the properties to be acquired for public space and facilities with the proceeds collected from the compensatory payment of planning obligations (developer exactions). The identification of the properties to be acquired and their prioritization should be done based on a plan developed by the district administration where public spaces and facilities for priority implementation distribution areas are included.

## d. Transferable Development Rights (Allocation of Buildability Rights)

*Transferable (or tradable) development rights* are authorized in Act 388 of 1997, but they have yet to be implemented anywhere in Colombia. This approach identifies that the development potential of a property as a distinct right created by society, separate from other property ownership rights, and that development potential does not exist in law until granted by the city. The notion of transferrable development rights argues that creating the development potential does not also create an inseparable connection to a given parcel of land. Thus, the development potential could, in principle, be transferred to another location, or it could be sold separately from the property it is originally associated with.

While Act 388 of 1997 envisions the possibility of tradable development rights, the legal and market infrastructure has yet to be developed in Colombia to enable serious experimentation with this tool. Given the experience with capital gain sharing, it will likely be several years before implementation is feasible.



It appears that some international organizations support development and experimentation with tradable rights in Colombia, though many of the examples of such implementation drawn from other countries are more focused on conservation and preservation than on land value sharing. There are at least three different practical examples of how transferable development rights might be used in urban development:

- The first example comes from the United States. In the state of Maryland, local governments have used TDRs successfully to maintain agricultural land and open space in the face of mounting pressure to convert such lands to urban uses. In these cases, the local government determines the aggregate amount of additional development it is willing to permit in a given area, and then assigns the rights for that development to each landowner based on the amount of land each owns. Developers then purchase land, the development rights associated with that land, and, in many instances, additional development rights from other land owners as needed for their particular project. The result is that the real estate market determines when and how densely a given property will be developed. The key point for local government is that once a landowner sells their development right separately from their land, the land can no longer be developed until and unless the owner acquires additional development rights in the market place. The policy has been successful in preserving open space, but it was never really intended to serve as a mechanism for local governments to share in the incremental value created by land development.
- Another application of TDRs which seems more consistent with Act 388 comes from Bangalore, India. The Bangalore Metro Rail Corporation is a public agency with responsibility for the Bangalore Metro Rail system. As the system expands, it becomes necessary to acquire additional right-of-way from private land owners. Bangalore Metro Rail has begun compensating private landowners in part with TDRs that can then be sold in the market place and used in other areas of the city. As in the U.S. example, the intent is not value sharing, but rather conservation of scarce financial resources. But the case serves to show that TDRs can be used creatively to help solve urban management challenges.

- The third example is explicitly an effort at value sharing and comes from São Paulo, Brazil. As with the U.S. example, the municipality determined the type and amount of additional development desired in a given section of the city. Certificates of Potential Additional Construction (Certificados de Potencial Adicional de Construção – CEPAC) were then generated. But rather than simply assigning the additional development rights to landowners, São Paulo sold the CEPACs in the open market through an electronic auction. In recent years, São Paulo has held several such auctions with varying degrees of success. The value of CEPACs is set in the market place and, as should be expected, some areas are deemed more desirable for additional development than others. As a publicly traded financial instrument, CEPACs can be bought and sold in the open market after their initial sale by the city, but the city only benefits directly from the initial sale of each certificate.

While the transferability of development rights tool has worked in the U.S., India and Brazil, Colombia has no specific history with this tool and consequently there is yet much to be done to create the legal, market and administrative systems that will both create and effectively manage the markets for tradable rights. The following analysis serves to compile and develop the legal framework which could be used to implement TDR in Colombia.



UN-Habitat hosts participatory community dialogue in La Candelaria, Medellín. © UN-Habitat



The different aspects studied in the previous chapters about the way urban development actions are determined have showed a specific characteristic of the territorial planning process in Colombia. The formulation of planning rules to regulate the use land is underpinned by the general principle that gives primacy to the general good over particular interests, and therefore transforms the way property rights should be exercised. This transformation has specific consequences on the property right. One of the most significant impacts is the possibility to differentiate the property right of the land from the right to build on it.

In this context, building potential is not an automatic extension of the land's property, and therefore it could be used as a mechanism by the local authorities to distribute burdens and benefits in urban development processes.

Regarding the constitutional principles and norms explained in the first chapter of this report, in the Colombian planning system, the property right has a social and ecological function and implies duties. In addition, the property right involves not only the right to own a plot but also the right to build on it once burden and duties (urban obligations) have been accomplished. In this context, development rights are generated and could be executed or transferred by the owners only under specific conditions. *“The regime determined by Act 338 of 1997 indicates that only when the urban duties consigned in the POT have been accomplished, it will be possible to define the urban potentials authorized by the urban norms”.*

Development rights are included in Act 388 of 1997 in two specific ways. First, development rights are defined as a mechanism that could be used by local authorities to convert development potentials attributed by the POT into development rights. Secondly, these rights are a form of compensation that can be used for land value sharing purposes and to distribute the benefits and burdens of development.

The transfer of rights is a mechanism designed to transfer the construction potential of areas with limited development potential to areas where development is possible. These rights may be transferred from areas that generate such construction rights to areas that receive them, preferably within the same planning area or in different areas previously established by the POT or the PP (Act 388/97 – Articles 88, 89 and 90).



The urban managing conditions will not only determine the development goals for a specific area but also the owners' realm of intervention in the territory. Hence urban managing conditions represent specific limitation for the owners that in some cases must compensate, under the principle of balanced distribution of burdens and gains. Such is the case for urban managing conditions for conservation. Areas under this condition are protected due to historical, ecological or architectural reasons, so the transformations in those areas will be strictly limited.

Article 3 of Decree 151 of 1998, explains this point as follows: *“Applying the urban conditions of conservation to an area, plot or building, limits the buildability rights. To compensate this limitation the transferable rights of buildability are created, and represent the extent of that limitation, compared with the extent of development that could be obtained for this same area without restrictions”.*

Article 2 of that same decree explicitly defines the conservation treatment as a limitation to the transformation of public infrastructure, private plots, public works or public space. The limitations are justified on environmental, historic and architectonic reasons, and must be determined by the POT or other planning instruments.

In this case development rights work as mechanism to compensate those limitations, as they would be equal to the development magnitude that has been restricted in comparison to the areas that would be built without restriction.

Therefore, development rights are understood as follows: *“The development rights are those that in particular cases regulate the land benefits, the underground and air space (espacio aéreo) of a plot, according with the urban license conferred by the authority, supported on the urban norms included in the POTS and in other instruments”.*

For these purposes, according with Article 6 of Decree 151, local authorities would issue development rights, defining the areas where they could be used and the conditions for the additional development allowed. To support this process, local authorities must advance technical studies about the demand on this kind of rights and how they are compatible with the urban norms of the area defined in the POT.

Article 49 of Act 388 explains that local authorities could create compensations funds in order to guarantee that the compensations will be paid for those owners that are affected by the urban managing conditions of conservation.



However, the way these rights could be transferred is determined by urban parameters. Article 10 of the same Decree exposes that transferable building rights would be conferred by increasing the development and construction index of the destination site as follows:

- Increasing density or number of units
- Increasing buildable square metres
- Increasing development and building indexes
- Other mechanisms defined by specific urban norms included in the POT.

Nevertheless, the POT will define maximal boundaries for the additional development authorized through the development rights; in order keep the development parameters established for the destination sites. Article 7 of Decree 151 establishes that destination sites would ideally be part of the same zones as the areas that generate development rights.

As such, development rights could be used as a mechanism in the distribution of burdens and benefits system. The additional potential building or other benefits that could be allocated for an owner will compensate a burden that has been imposed to their property. For example, local authorities could use development rights for land value sharing by issuing securities (*títulos valores*) on them. In this way, development rights are used as a mean to implement revenues from capital gain sharing (*Participación en plusvalías*).

Furthermore, Article 61 of Act 388 includes development rights as a payment source or a way to compensate for voluntary purchases or expropriation processes. These processes are regulated as mechanisms that could be used for the local authorities to obtain plots for the following goals:

- Execution of social infrastructure projects for health, education, recreation and food supply and security.
- Execution of social housing projects, including the legalization process.
- Execution of urban renewal projects and public space provision.
- Execution for distribution and extension of public services provision.
- Execution of road network projects
- Delimitation of expansion areas for future cities' expansion.

Therefore, both expropriation and voluntary purchase are imposing a burden on the owner, due to general interest goals. As the property right is eliminated in this development allocation system, this burden should be compensated.

For the cases where the property right is not eliminated but seriously affected, Act 388 has established several compensation mechanisms. For the limitations that are a consequence of the conservation treatment, development rights work as compensation. In other cases where a landowner bears an affectation due to public works, development rights could also be used, but the local authorities could also pay with money, development rights securities, urban reform notes (*pagarés de reforma urbana*) or property tax reductions.

The distinction that was determined by Decree 151 enables the local authorities to convert development rights into securities. As mentioned before, this possibility is applicable for the compensation due to urban managing conditions of conservation.

However in the capture of capital gains where Act 338 has clearly exposed that transferable development rights could represent a useful mechanism. Thus, Article 88 determines that the local authorities, authorized by city councils, could issue and place securities that represent transferable development rights.



Community member contributes to the La Candelaria redevelopment plans. © UN-Habitat



Transferable rights are those obtained as consequence of specific urban interventions included in Article 74 of Act 388, as urban actions that generate capital gains:

- Incorporation of rural land into expansion land or the incorporation of rural land as suburban land.
- Definition or modification of land use zoning.
- Authorization of higher benefits due to an increase in the development or construction index or both.

In this sense, capital gains will be represented in transferable development rights that are measurable in square meters.

The local authorities could place securities in the market to materialize their participation in the capital gains obtained as result of the urbanization process. In this way, the municipalities could charge the securities value when urban licenses are approved, used them to fund other urban development interventions or to recognized development rights for other owners.

Articles 89 and 90 determine the basic rules to use this mechanism:

- The issuing and placement of the securities must follow the commercial rules applicable and will be under surveillance of the competent authorities.
- The securities will represent the amount of transferable development rights expressed in square metres. Therefore the local authorities must formulate an equivalence table (table de equivalencias), that explains the stock value represented in square metres.
- The transferable rights will be effective when the urban license is approved.

Local authorities should define at local level through urban norms the way this mechanism is applicable for their territories.

## e. The Annual Tax on Immovable Property (The Property Tax)

The annual tax on immovable property (*Impuesto Predial Unificado*) is often overlooked as a value sharing tool. The tax currently provides significant revenue in Medellín, Colombia, and to the extent that the tax is linked to the current commercial market value of land and buildings, it increases as land values increase.

Viewing the property tax as a tool for land value sharing has two advantages. First, it avoids the frequent political challenges associated with the large up-front cash payments required under capital gain sharing. Second, if the cadaster, valuation and collection systems are well managed, the annual property tax incorporates land value sharing as a permanent feature of the city's revenue system since the tax will increase with future land value increases. To assure that such future increases are politically acceptable, land value increases in the market place must regularly translate into increases in taxable value, and property tax rates must be carefully managed by decision makers.

Medellín has a long history with the annual property tax, and is currently involved in further improvements to the system. Two taxes generate roughly 80% of Medellín's tax revenue: the property tax (*Predial*) and the Industrial and Commercial tax. In 2000, the annual property tax generated nearly 46% of total tax revenue. This percentage has fallen over time but remains a significant revenue source at just less than 39% in 2011. The revenue generated by each major tax is shown in Figure 3 on a per capita basis after adjusting for inflation. Figure 3 makes apparent that all tax collections have increased in real terms. The Industrial and Commercial tax has more than doubled, while the property tax has increased by over 50% in real per capita terms.

Efforts to improve the annual property tax showed marked improvement in revenues between 2003 and 2006. No further improvements in collections per capita have been experienced since then. This trend suggests there may be opportunity to further improve the performance of the property tax.

In its latest assessment of economic conditions in Colombia (2013), the Organization for Economic Cooperation and Development (OECD) notes that there is scope to increase property tax revenues within the country. While higher than many Latin

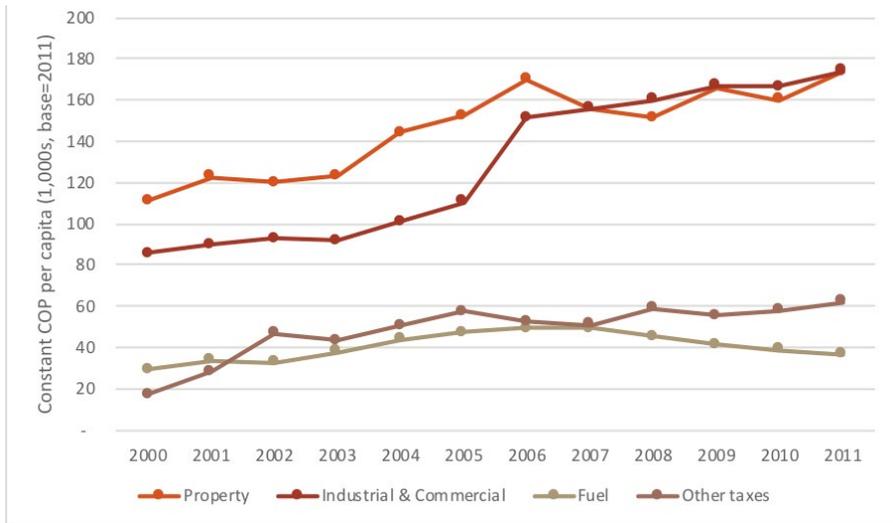


Medellín, Colombia. © UN-Habitat

American countries, annual taxes on immovable property in Colombia raise only 0.6% of Gross Domestic Product (GDP), well below the OECD average of 1.0% of GDP. Increasing property tax revenues requires consistent and careful attention to administrative functions of cadaster management and valuation updates. The OECD report observes that cadastral management throughout Colombia is in need of improvement. Even when properties are recorded in the cadaster, valuations are often seriously out of date. The report notes that “... past experience in Colombia, as in OECD countries, suggests that the most expensive properties are also the ones assessed at the most outdated property values.”

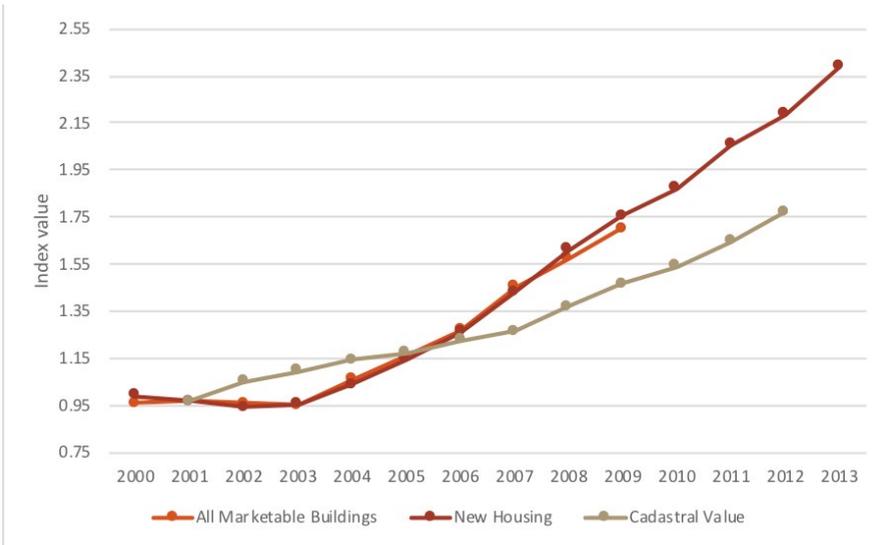
Following the requirements of a 2011 law, cities across Colombia have begun to update their cadastral values, and Medellín is no exception. In 2012, Medellín revalued over 830,000 urban buildings with an aggregate cadastral value of 43,097,864 million COP. Medellín cadastral values increased by an average of 5.7% per year between 2001 and 2012 based on statistics provided by DANE. Using the annual changes in cadastral value and annual changes in building costs as reported by DANE, it is possible to compare Medellín’s cadastral value with market conditions. Figure 4 reports the comparison. From the DANE pricing data, it appears that housing prices and the index for all buildings track quite closely. Setting the index for cadastral values to be equal to the building price index in 2001 shows how the two series have diverged over time. The trends suggest that since 2006 market prices have increased at the average rate of about 9.6% per year. Thus, while cadastral values have increased, they have not kept pace with changing market prices.

**Figure 3 Tax Revenue per Capita by Tax, Adjusted for Inflation**



It is not uncommon for tax policy to stipulate that taxable property values should be lower than actual commercial market value. However, the fact that the two trends appear to be on an increasingly divergent course suggests that the observed differences are due more to administrative challenges than any explicit policy choice. Hopefully, with the renewed efforts to improve the cadaster undertaken in 2012 and beyond, this trend will change. That such efforts can bear fruit in terms of increased revenue is borne out by the experience in Bogotá. Between 1993 and 1999, Bogotá saw a marked increase in annual property tax revenue without changes in the tax rate as a result of increased emphasis on cadaster management and collection practices. With the increased emphasis on improving the cadaster, it appears that Medellín could have a similar experience in the years ahead.

**Figure 4: Changes in Cadastral Value Compared to Change in Building Prices**



### Land Value Sharing as a Tool for Financing Land Readjustment Proposals

The land readjustment project of La Candelaria neighborhood (case study from the previous chapter) can be viewed as an example of the limits of using the land value sharing tool for financing developments low-income areas. The practical options for value sharing in La Candelaria appear rather limited given the nature of the site. Developer exactions or urban transfer obligations of land can be imposed but given the present plot sizes, the land area required will likely be a significant portion of the currently occupied land. Given this consideration and the fact that the city government already owns 60% of the plots, transfer obligations seem of limited utility in this setting. Capital gain sharing has very limited revenue potential in this project given that there will be little if any change in the effective density or land use of the area and land values will increase only modestly. Betterment charges are feasible but it appears that the charge per dwelling will likely be higher than the annual income of most households in the area. Tradable development rights do not appear to be a relevant option since there are no new development rights to



trade given the proposed design concept. The annual property tax will generate very modest new revenues, but not sufficient to fund the proposed improvements.

The best option for value sharing in this area must recognize the income capacity of residents. The city should consider exercising patience and accept payment over a period of years. Collecting the betterment charge over time would greatly reduce the financial burden on residents while still allowing the city to cover the cost of improvements. The charge could be collected in the form of a supplemental property tax levied on just the landowners in La Candelaria for a fixed number of years.

## **II. URBAN RENEWAL BONDS**

Urban renewal bonds are a long-term obligation issued by a corporation or a Government entity with the purpose of financing important projects. In essence, the borrower receives money in exchange for a promise of payment, including interest. Urban renewal bonds are exclusively used to finance urban development projects included in the POT.

## **III. URBAN RENEWAL PROMISSORY NOTE**

The urban renewal promissory note is a mechanism used by different territorial entities to back up the acquisition of real estate through voluntary disposition or expropriation. (Act 9/89 – Art. 99). The signed document contains a written promise to provide the stated services by a specific date.

## **IV. LAND BANKS**

Land Banks were introduced by Law 9/89 in Article 70 and later refined by the LDT. Their purposes are to acquire land, execute social housing projects, provide urban public space and adapt land, among others. To intervene in the land market, they have the capacity to use land price control mechanisms included in Colombia's legal urban framework, to buy and sell land at the lowest possible price. According to the aforementioned Law, Land Banks may intervene all across each municipality's urban area.



Land Banks can be constituted by different types of public companies, giving them the faculty to operate with financial and administrative autonomy, which allows them to be more effective in executing their objectives. Banks may also associate with other public entities to develop undeveloped areas defined by the municipality's development Plan, using land management mechanisms such as land readjustment.

The main characteristic of Land Banks is the possibility to operate and articulate the different planning and land management tools included in Colombia's legal framework, to fulfill two different purposes: 1) the acquisition of land for different public purposes and 2) the intervention of the land market, allowing it to become a fundamental asset for land use strategies.

According to Natalia Valencia, most land banks in Colombia have concentrated on the acquisition of land areas to constitute public land reserves. However, they have invested important public resources in the transaction of such areas because they have not implemented appropriate land control mechanisms and hence have not been able to control the initial value of land. Additionally, because of this lack of land price control, land banks have concentrated their efforts on the acquisition of areas located in peripheral areas where prices are lower. However, because such areas do not have the appropriate public infrastructure, most works are financed using public resources. Furthermore, due to the lack of coherent urban planning and appropriate use of land value capture mechanisms, the extension of such infrastructure to peripheral areas has increased the land value of areas around such developments, promoting their formal or informal development, without recovering the land value increase.

With this in mind, land banks in Colombia play a defining role in the regulation of the free land market. Their role depends on their ability to use and articulate their performance with the application of the set of planning and land management tools included in Colombia's legislation, in order to control land speculation over large pieces of peripheral land. The presence of land banks across the country has meant that landowners have been able to control land prices, and because municipal administrations are not able to pay for the free land market value of such land, many landowners have opted to sell such areas to poor families, resulting in the formation of informal settlements. Land banks are then answerable not only to participate in the transaction of land according to the free market forces, but also to become an active member in urban planning and land management decisions. Their operation must be able to develop projects with an appropriate land management

strategy that can buy land at appropriate prices and sell urbanized land at low prices that are able to include social housing developments.

Understood as vehicles for the management of land readjustment projects, land banks included in Colombian law are a suitable tool, as they use and articulate several land management tools. They are especially useful in the mediation between public and private actors. However, except for Metrovivienda, the land bank system has not been widely used in Colombia, due to political issues.

## 1. Case Study: Metrovivienda: The City Land Bank of Bogotá

In 1999, Bogotá's Local Administration designed a strategy to offer accessible housing solutions to low-income families unattended by the National Government's demand subsidy system, within the objective of providing serviced land (urbanized) at low costs. The strategy looked to incorporate private land to the urban area through agreement between landowners and the Local Administration for the equitable distribution of benefits and burdens.

The strategy was made up of two separate actions. The first aim was to regulate and upgrade informal settlements and the second was to provide a new planning model that could replace the common informal urbanization processes by creating a management system, a regulatory frame and a set of incentives that could broaden the formal market so that low-income families could have access to it.

Metrovivienda was created as part of the second action, becoming the first official Land Bank in Colombia. According to the Agreement (1998) that created Metrovivienda, its main objective is to promote the massive supply of urban land to facilitate the execution of Social Housing Projects, develop land bank type functions in relation to real-estates specially destined to provide social housing solutions and promote the organization of low-income families to facilitate their access to land destined for social housing projects.



One of Metrovivienda's main challenges was to provide better economic and financial conditions for private promoters to develop social housing projects. To achieve this, the task was set to sell urbanized land at low prices, by developing a coherent strategy that would initially buy land at low prices using control mechanisms, capture the increase of land value and using such to cover (partially) infrastructure costs. According to regulations, Metrovivienda is not allowed to build houses. Metrovivienda's main functions are: the formulation of urban projects, land acquisition and administration, resource management for the habilitation of land, project management and revision of urban norms for projects promoted by it.

This model has a facilitator-type perspective, as it operates to allow private agents to be actively involved in the provision of social housing. It has been criticized because although it has the autonomy to use and articulate several planning and land management tools to intervene in the free land market, its involvement in this area has been very limited. Its lack of experience in the use of such control mechanisms has limited Metrovivienda's actions to peripheral or undeveloped areas where, though land prices are low, urbanization costs are very high. Therefore, its main purpose of multiplying the supply of land for social housing has been quite low, end prices for units have not decreased, thus access to formal housing solutions for low-income families is still an unresolved challenge.

## **V. REAL ESTATE TRUST FUNDS**

Trust funds have been commonly used as a financial tool in the real estate industry since they were introduced in Colombia during the 1990s, and especially after a severe crisis that hit the construction industry during the mid-1990s. In 1997, the LDT authorized municipal authorities to sign real estate trust fund agreements to execute urban development projects and social housing programs. Real estate trust funds are defined in Article 1226 of the Commercial Code.

In relation to Partial Plan projects, trust funds become a flexible and versatile tool to set and manage an associated management scenario between landowners and the state, in the readjustment of public and private land, and the development of urbanism works. They have been commonly used because they work as a control



mechanism that, through the creation of an autonomous patrimony, guarantee the successful distribution of benefits and burdens derived from the project and an efficient land management administration. Additionally, trust funds work as a safe vehicle to manage investment, costs and expenses related to urbanism works in which several actors are usually involved. Furthermore, trust funds have become an essential vehicle to motivate small-terrain landowners to participate in urban projects in which large-terrain landowners (companies or the state when expropriation is needed) are involved, as they are managed by serious trust companies that guarantee safety.

According to Maldonado et. al (2006), a real-estate trust fund usually operates in the following way:

1. Initial transfer to the autonomous patrimony
  - Lots involved in each Urban Action Unit. Transfers may be made over the course of development of each separate UAU.
  - Lots of reluctant landowners expropriated by the state, in which case the trust fund becomes the third party involved.
  - Local infrastructure costs, and other investments or costs needed for the proper development of the project.
2. Redemption, final transfer: benefit rights are usually paid to beneficiaries in the form of “urbanized land” or money, and are usually defined in the trust fund contract.

Real-estate trust funds have been widely used in private-initiative-type projects. As mentioned earlier, because of their flexibility, they are easily suitable to mediate between landowners and guarantee a safe and efficient vehicle for the equitable distribution of benefits and burdens derived from the urban project. Many of the experts in the field have suggested that it would be important to include a regulation of trust funds within a future revision of the LDT, especially to define their possibilities to articulate and relate to other land management and financial tools.

## ENDNOTES

---

119. Rodríguez, J.F. (2012).
120. Roldán, J. (2011).
121. Montaña, M. (2011), Borrero, O. et. al. (2011). One result of that other cities such as Bogotá have more accurate and detailed information about funded projects, as well as the revenue they generate and the collection methodology.
122. Source: Borrero, O et. al. (2011), pp. 16.
123. Ibidem.
124. Development Plan, Medellín un hogar para la vida 2012-2015, p. 257 and 258, available in: [http://www.Medellin.gov.co/irj/go/km/docs/wpcontent/Sites/Subportal%20del%20Ciudadano/Plan%20de%20Desarrollo/Secciones/Publicaciones/Documentos/PlaDesarrollo2012-2015/2012-04-30\\_Proyecto%20de%20acuerdo%20VERSION%20COMPLETA.pdf](http://www.Medellin.gov.co/irj/go/km/docs/wpcontent/Sites/Subportal%20del%20Ciudadano/Plan%20de%20Desarrollo/Secciones/Publicaciones/Documentos/PlaDesarrollo2012-2015/2012-04-30_Proyecto%20de%20acuerdo%20VERSION%20COMPLETA.pdf), consulted on 8th July 2013.
125. Source: Smolka, M. (2013), pp. 61.
126. Source: Calculated by Fernando Garzón. "La Contribución de Valorización" DNP 1992 with data from the Central Bank of the Republic, in Samuel Jaramillo, "La experiencia colombiana de la recuperación estatal". From Martín Smolka and Fernanda Furtado, *Recuperación de plusvalías en América Latina*. Eureslibros 2001. Page 77.
127. The first POT established an obligation of 8square meters of land transfer for every 100square meters of development for any purpose.
128. See for example Talmur Samad, Nancy Lozano-Gracia, and Alexandra Panman, eds., 2012, *Colombia Urbanization Review: Amplifying the Gains from the Urban Transition*, Washington, DC: The World Bank, particularly chapter 5.
129. Walls, M., 2012, *Markets for Development Rights: Lessons Learned from Three Decades of a TDR Program* (December 6, 2012). Resources for the Future Discussion Paper No. 12-49. Available at SSRN: <http://ssrn.com/abstract=2197996> or <http://dx.doi.org/10.2139/ssrn.2197996>
130. Walters, L.C., (2013), 10(2):5-21.
131. Sandroni, P. (2010).
132. Pinilla, J. F., (2012), pp. 281
133. Ibid, p. 285
134. Ibid, p. 285
135. This Article refers to additional development rights, however to keep the same terminology that has been used in the rest of the text these rights will be named as transferable development rights.
136. OECD (2013), pp. 82.
137. CONPES (2012)
138. DANE (2012)
139. Source: DNP, DANE and calculations by the authors
140. It may be possible for the city to sell some of the plots to generate additional revenue, but this would not constitute value sharing since it would merely convert on city asset (land) into another city asset (cash).
141. Special Pre-emption Right
142. Source: Dávila, N.V. (2011).
143. Source: (Metrovivienda, 2004)
144. Source (Pinilla & Rengifo, 2012):

# REFERENCES

- Acosta, P. (2008). *Policy Learning: New Challenges for Smart Value Capture in Colombia*. Cambridge, MA: Department of Urban Studies and Planning, Massachusetts Institute of Technology, page 89.
- Alcaldía de Medellín. (2007). *Planes Parciales: Conceptos y aplicación*. Medellín.
- Alcaldía de Bogotá. (2004). *POT, Decreto 190 de 2004*. Bogotá.
- Alianza Fiduciaria. (2016). "*Documentos de trabajo*", Bogotá.
- Alfonso, O. (2003). *De Nagoya a Armenia*. Bogotá.
- AMVA. (2010). *Instrumentos de Gestión Urbana*. Medellín.
- BID. (2011). *Las ciudades del mañana*.
- Bird, R.M. (2012). *Fiscal Decentralization in Colombia: A Work (Still) in Progress*, Working Paper 12-23, International Center for Public Policy, Andrew Young School of Policy Studies, Atlanta: Georgia State University, page 47.
- Bocanegra, J. C. G. (2010). "Experiencias de gestión urbana reciente en Medellín: Iniciativas públicas". *Las ciudades del mañana. Gestión del suelo urbano en Colombia*. Banco Interamericano de Desarrollo. Washington, D.C. pp. 135-193.
- Bocanegra, J. (2013). "Breve experiencia en la aplicación de los instrumentos de planificación y gestión del suelo", Expert Group Meeting: Land Value Sharing Tools in Medellín, Colombia. Medellín.
- Booth, P.A. (2012). The Unearned Increment: Property and the Capture of Betterment Value in Britain and France. In G. K. Ingram and Y.-H. Hong, eds., *Value Capture and Land Policies*, Cambridge, MA: Lincoln Institute of Land Policy.
- Borrero, O. et al. (2011). *Contribución de valorización*, Bogotá: Instituto de Estudios del Ministerio Público, p. 15.
- Camargo, S. (2003). *La reconstrucción del Barrio La Brasilia: un caso de reajuste de suelos con participación comunitaria*. Bogotá.
- Colombia, Congreso de la Republica de Colombia. (1989). Ley 9 de 1989 "*por la cual se dictan normas sobre planes de desarrollo municipal, compraventa y expropiación de bienes y se dictan otras disposiciones*", en diario oficial N° 38.650 del 11 de enero de 1989, Bogotá.
- Colombia, Asamblea Nacional Constituyente. (1991). Constitución Política de Colombia de 1991", en diario oficial, Bogotá.
- Colombia, Congreso de la Republica de Colombia. (1997). Ley 388 de 1997 "*por la cual se modifica la Ley 9 de 1989, y la Ley 2 de 1991 y se dictan otras disposiciones.*", en diario oficial N° 43.091 del 18 de julio de 1997, Bogotá.

- Colombia, Alcaldía Mayor de Bogotá, D.C. (2014). Decreto Distrital 420 de 2014. " *Por medio del cual se adopta el Plan Parcial de Renovación Urbana Triángulo de Fenicia, ubicado en la localidad de Santa Fe y se dictan otras disposiciones.*", en diario oficial, Bogotá.
- Colombia, Alcaldía Mayor de Bogotá, D.C. (2014). Decreto Distrital 448 de 2014. " *Por medio del cual se reglamenta la política de incentivos para la generación de proyectos de renovación urbana que promueven la protección de los propietarios y moradores originales y su vinculación a dichos proyectos y se dictan otras disposiciones.*", en diario oficial N° 5452, Bogotá.
- Colombia, Alcaldía Mayor de Bogotá, D.C. (2016). Decreto Distrital 146 de 2016. " *Por medio del cual se delimita y declara como de Desarrollo Prioritario la Unidad de Actuación Urbanística No. 1 del Plan Parcial de Renovación Urbana Triángulo de Fenicia*", en diario oficial, Bogotá.
- CONPES. (2012), Reajuste de Avalúos Catastrales para la Vigencia de 2013, Consejo Nacional de Política Económica y Social; República De Colombia; Departamento Nacional De Planeación.
- Contraloría General. (2006). *Evaluación de la política de vivienda: Plan Nacional de Desarrollo 2002-2006: Hacia un país de propietarios*. Bogotá.
- Correa, A.G. (2012). Development Plan, *Medellín un hogar para la vida 2012-2015*, p. 257 and 258, available at: [http://www.medellin.gov.co/irj/go/km/docs/wpccontent/Sites/Subportal%20del%20Ciudadano/Plan%20de%20Desarrollo/Secciones/Publicaciones/Documentos/PlaDesarrollo2012-2015/2012-04-30\\_Proyecto%20de%20acuerdo%20VERSION%20COMPLETA.pdf](http://www.medellin.gov.co/irj/go/km/docs/wpccontent/Sites/Subportal%20del%20Ciudadano/Plan%20de%20Desarrollo/Secciones/Publicaciones/Documentos/PlaDesarrollo2012-2015/2012-04-30_Proyecto%20de%20acuerdo%20VERSION%20COMPLETA.pdf)
- DANE (2012). *Colombia, Índice de Valoración Predial (IVP): 2001-2012*, available at: <http://www.dane.gov.co/index.php/indices-de-precios-y-costos/indice-de-valoracion-predial-ivp>.
- Dávila, N. V. (2011). *¿Un Banco de suelos para Bogotá? - Documento de Trabajo sin publicar, base para la publicación de Bogotá*.
- Daza, Ricardo. (2015). " *Testing Land Readjustment in Colombia: The equitable share between stakeholders.*" *Thesis for the MSc Programme in Urban Management and Development. Institute of Urban Management of Erasmus University Rotterdam (HIS). Rotterdam, September 2015.*
- DNP. (2005). *Estrategia Nacional Suelo Vivienda*. Bogotá.
- DNP. (2007). *Suelo y Vivienda para Hogares de Bajos Ingresos*. Bogotá.
- DNP. (2009). *CONPES, Mejoramiento Integral de Barrios*. Bogotá.
- García-Bellido, J. (1998). *Perspectivas del nuevo urbanismo colombiano*. Madrid.
- Hong, Yu-Hung and Tierney, Julia. (2013). " *Making Land Readjustment Participatory and Inclusive*". Working Paper. UN-Habitat.

- Hong, Yu- Hung. (2007). Introduction. En Hong, Yong y Needham B (Eds), " *Analyzing Land Readjustment*". Economics, Law and Collective Action, Cambridge, MA: Lincoln Institute Of Land Policy.
- Hoyos, Carlos y Pinilla, Juan Felipe. (2014). "Forms of Land management in Urban Renewal. Between expropriation and Land Readjustment: some reflections based on Istanbul". Law Review Bahcesehir Universitesi ( special Issue), 219-233.
- Hoyos, Carlos y Pinilla, Juan Felipe. (2015). " *El reajuste de terrenos: una alternativa más equitativa e incluyente para la gestión del suelo en procesos de renovación urbana.*" En: De la Renovación a la revitalización, desafíos para Bogotá. 218-242
- IGAC. (2003). *Gestión del Suelo Urbano*. Bogotá.
- Ingram, G. K., and Y-H. Hong, eds. (2012). *Value Capture and Land Policies*, Cambridge, MA: Lincoln Institute of Land Policy.
- LILP. (2003). *Reforma urbana y desarrollo urbano*. Bogotá.
- Loebele, W. (2002). *Tools for Land Management and Development: Land Readjustment*.
- Maldonado, M. M. (2004). *El proceso de construcción del sistema urbanístico Colombiano*. Bogota.
- Maldonado, M. (n.d.). *Análisis de la aplicación del decreto 327 de 2004*. Bogotá.
- Maldonado, M. et al. (2006). *Planes parciales, gestión asociada*. Bogotá: Lincoln Institute of Land Policy.
- Mauricio, R. and Pinilla, J.F. (2012). *Las Cesiones Urbanísticas Obligatorias en la jurisprudencia colombiana. Lecciones sobre su naturaleza y alcance*. La Ciudad y el Derecho. Una introducción al derecho urbano contemporáneo. Editorial Temis. Bogotá.
- Mayor of Medellín (2007). "RESOLUCIÓN No. 442 'Por la cual se legaliza y se regulariza urbanísticamente el Sector La Candelaria ubicado en el polígono Z2 – MI – 11. "
- Metrovivienda. (2004). *Informe de Gestión 1999 - 2003*. Bogotá.
- Metrovivienda. (2011). *Una reflexión sobre la producción de vivienda social en Bogotá 1998 - 2010*. Bogotá: Metrovivienda.
- Montaña, M. (2011). "Aspectos constitucionales y legales de la contribución de valorización". *Contribución de valorización*, Bogotá: Instituto de Estudios del Ministerio Público.
- Muñoz, D. (2010). *Capturing value increase in urban redevelopment*, Doctoral Thesis, Radboud University Nijmegen, Netherlands.
- OECD. (2013). *OECD Economic Surveys: Colombia 2013: Economic Assessment*, OECD Publishing. [http://dx.doi.org/10.1787/eco\\_surveys-col-2013-en](http://dx.doi.org/10.1787/eco_surveys-col-2013-en).
- Pinilla, J. F. and Rengifo, M. (2012). *La ciudad y el derecho*. Bogota: Ediciones Uniandes.
- Pinilla, J. F. (2012). *Propiedad Privada versus Planeación Urbana en Colombia, Quién manda a quien?*, en "La Ciudad y el Derecho", Ediciones Uniandes, Editorial Temis, Bogotá, p. 262.
- Pinto, A. (2005). *La distribución equitativa de cargas y beneficios en Colombia*. Bogotá.
- Pinzón, J. and Fonti, J. (2007). *Una aproximación al Catastro en Colombia*. Revista UD y La Geomática.
- Rave, B. H. and Rojas, M. C. (2012). *Land readjustment plans in Colombia. Final Paper*. Documento por publicar. Bogotá. pp. 21.
- Rodríguez, J. F. (2011). *LOOT*. Bogotá: World Bank.
- Rodriguez, J.F. (2012). *Land Readjustment (LR/P) Experience in Colombia*, UN-Habitat. [http://www.urbangateway.org/sites/default/ugfiles/land\\_readjustment\\_experience\\_in\\_colombia.pdf](http://www.urbangateway.org/sites/default/ugfiles/land_readjustment_experience_in_colombia.pdf).

- Rojas, M. C. (editora). (2015). *"De la Renovación a la revitalización: desafíos para Bogotá"*, Secretaría Distrital de Planeación – SDP, Bogotá, Colombia.
- Roldán, J. (2011). "Sección 1. Modelo Medellín". *Contribución de valorización*, Bogotá: Instituto de Estudios del Ministerio Público.
- Ruiz, A. R. (2011). *Poder y Gestión del Suelo*. Medellín.
- Salazar, J. (2007). La planeación de Bogotá: un sistema híbrido de desarrollo progresivo. *Revista BitácOra*.
- Samad, T. et al. (2012). *Colombia Urbanization Review: Amplifying the Gains from the Urban Transition*, Washington, DC: The World Bank, chapter 5.
- Sandroni, P. (2010). A new financial instrument of value capture in São Paulo. In *Municipal Revenues and Land Policies*, eds. G. K. Ingram, Yu-Hung Hong. Cambridge, MA: Lincoln Institute of Land Policy.
- SDP. (2011). *Encuesta Multipropósito de Bogotá*. Bogotá.
- Smolka, M., & Mullahy, L. (2007). *Perspectivas urbanas: temas críticos en políticas de suelo en América Latina*. Cambridge, MA: Lincoln Institute of Land Policy.
- Smolka, M.O. (2013). *Implementing Value Capture in Latin America: Policies and Tools for Urban Development*, Cambridge, MA: Lincoln Institute of Land Policy.
- Torres, C. A. (2004). *Reflexiones sobre el contexto del urbanismo en Colombia*. Bogotá: Urbanismos.
- Torres, P. (2010). *Ciudades del mañana*. Bogotá: Banco Interamericano de Desarrollo.
- UN-Habitat, no date, Participatory and Inclusive Land Readjustment, Nairobi, Kenya: UN-Habitat. See also UN-Habitat.org, 2013, "The City of Medellín and UN-Habitat pilot inclusive land readjustment", <http://www.unhabitat.org/content.asp?cid=12137&catid=7&typeid=6>.
- Universidad de los Andes- Programa Progresía Fenicia. (2014). *"Ajustes a la formulación del Plan Parcial Triángulo de Fenicia."* Agosto de 2014, Bogotá.
- Universidad de los Andes- Programa Progresía Fenicia. (2016). *"Bases para la actuación Unidad de Actuación Urbanística N° 1 del Plan Parcial de Renovación Urbana Triángulo de Fenicia."* 7 de julio de 2016, Bogotá.
- Universidad de los Andes- Programa Progresía Fenicia. (2016). *"Cartilla de información para la Unidad de Actuación Urbanística N° 1 del Plan Parcial de Renovación Urbana Triángulo de Fenicia."* 22 de octubre de 2016, Bogotá.
- Universidad de los Andes- Programa Progresía Fenicia. (2016). *"Cartilla de información para la Unidad de Actuación Urbanística N° 1 del Plan Parcial de Renovación Urbana Triángulo de Fenicia."* 22 de octubre de 2016, Bogotá.
- Universidad de los Andes- Programa Progresía Fenicia. (2016). *"Acta primera reunión de socialización de las bases para la actuación urbanística con los propietarios de los inmuebles de la Unidad de Actuación Urbanística N° 1 del Plan Parcial de Renovación Urbana Triángulo de Fenicia."* 7 de julio de 2016, Bogotá.
- Universidad de los Andes- Programa Progresía Fenicia. (2016). *"Acta segunda reunión de socialización de las bases para la actuación urbanística con los propietarios de los inmuebles de la Unidad de Actuación Urbanística N° 1 del Plan Parcial de Renovación Urbana Triángulo de Fenicia."* 22 de octubre de 2016, Bogotá.

- 
- Universidad de los Andes- Programa Progresía Fenicia. (2016). “*Publicaciones periódico: Directo Fenicia*”, Bogotá.
- Uribe-Mallarino, C. (2008). *Estratificación social en Bogotá: de la política pública a la dinámica de la segregación social*. Bogotá: PUJ.
- Wall Street Journal. (2012). *City of the Year: Medellín*. <http://online.wsj.com/ad/cityoftheyear>
- Walls, M. (2012). *Markets for Development Rights: Lessons Learned from Three Decades of a TDR Program*. Resources for the Future Discussion Paper No. 12-49. Available at SSRN: <http://ssrn.com/abstract=2197996> or <http://dx.doi.org/10.2139/ssrn.2197996>
- Walters, L.C. (2011). *Land and Property Tax: A Policy Guide*, Nairobi: United Nations Human Settlements Programme (UN-HABITAT).
- Walters, L.C. (2013). Land Value Capture in Policy and Practice, *Journal of Property Tax Assessment & Administration*, 10(2):5-21.



# URBAN LAW IN COLOMBIA

## URBAN LEGAL CASE STUDIES VOLUME 5

The Colombian urban legal framework is a robust and complex structure of tools that has become a renowned example in Latin America. In pursuit of a livable standard for urban residents, amidst rapid population and urban growth, the Colombian government has institutionalized a decentralized territorial development organization and a large variety of legal tools to enable Colombian cities to develop sustainably, equitably, and with collaborative participation from all city agents. The national Territorial Development Law established in 1997 requires each municipality to produce local development plans and establish a contextual institutional procedure for enacting housing, transportation, basic service provision or other such urban projects.

The territorial planning tools introduced with Law 388 of 1997 include combinations of methods and mechanisms to develop urban projects, such as land readjustment, urban action units, partial plans, and the city's general land use plan. They are closely related and organize the set of urban development procedures in a cascade form—each tool depends on a tool of superior hierarchy. Such tools can be classified into three separate groups: planning, land management and financial tools. This book creates a general overview of the different tools that make up Colombia's territorial development toolbox, their history of implementation and the challenges faced due to legal frameworks, institutional capacity, or geographic specifications.

HS Number: HS/057/18E  
ISBN Number(Series): 978-92-1-133365-7  
ISBN Number:(Volume) 978-92-1-132809-7



UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME  
P.O.Box 30030, Nairobi 00100, Kenya  
Tel: +254-20-7623120  
Fax: +254-20-76234266/7 (Central office)  
infohabitat@un.org  
www.unhabitat.org