

REDRESS AND ADJUSTMENT OF CONDUCT IN URBAN MATTER

Project Phase II

1. Synopsis

What follows is a project of applied research whose object is the (sustentabilidade ambiental) and the regularisation of (assentamentos=grouping) of social residences and whose partners are (LabHab) the Laboratory of residence and human groupings of the Faculty of Architecture and Urbanism-University of São Paulo (FAU-USP) and (Caohurb) the Centre for Operational Support of the Office of the Promoters of Justice (Criminal Prosecutors) of Residence and Urbanism of the Ministério Public of the state of São Paulo. The Project has as co-partners The Offices of the Promoters of Justice and Superintendencies of Municipalities of the Metropolitan Region of São Paulo City.

The aims of the current project is the elaboration, to be applied to groupings of houses localised in areas of protection of reserves of drinking water, of patterns of regularisation which allow better adaptation of illegal grouping of houses to the legislation in force, with upgrading of the life quality of the community and effective redress. Such projects should lend the necessary information for the elaboration of the terms of adjustment of conduct and/or to the judicial requests formulated in public actions. The dialogue between the technical and legal areas and the discussion on the legislation in force will allow a more realist and effective action and will offer material to be used in the elaboration of public polices suitable to the protection/use of the soil in areas of reserves of drinking water compatible with an effective capacity of management and control of the public power and of the society.

An informal co-operation between LabHab and Caohurb started in 2000 and gained support of FAPESP as a project of research in the beginning of 2002. The first phase of the research, from February and July of 2002, allow the formation of the team and the routines of teamwork. Common knowledges were consolidated and precise directions, priorities and steps were identified in order to assure the attainment of the proposed aims.

The Phase II, that is started now, must develop pilot-projects of environmental recuperation and regularisation of human groupings, considering not only the occupied area but also the totality of the micro-basin which comprehends them. It must also wide and consolidate the collection (repertoire) of available technical alternatives and the institutional-juridical alternatives for the regularisation of the groupings and their respective registries.

So far the following activities were already undertaken: one exposition: *Social Habitation and Environment*, presented at the FAU-USP in October 2000; two Seminars, conferences, interviews, various publications –inclusive abroad- and one Project of Research in Public Polices, with the support of FAPESP. The work was awarded in 2001 with the Merit Stamp of the Brazilian Association of COAHBs-ABC, for its “contribution to the production of social habitation in Brazil”, in terms of proposals and formation of professionals.

5. Plan of Work

The definition of the Plan of Work for the Phase II was widely discussed between the Partners and Co-Partners, who brought contributions and details in order to define their participation and expectation. A Plan of Work for two years is very wide and it contains necessarily simultaneous actions. In the name of clarity, it was adopted an organisation of the work around the kinds of activities, in the following order: *Development of Proposals* (which are the effective aims of the research); *Systematisation/typology* (which involves the groups of information and crossing of date on which the proposals are based); *Theoretical development*, in view of the necessary justifications in order to elaborate the proposals; *Capacitating* and development of the team, partners and a wider public who must be touched also by the *Publications* and by various forms of *Spreading and Repercussion*.

Development of Proposals

1-Development of proposals of urban and environmental adaptation - including infrastructure in the level of ante-project for the groupings studied in the Phase I: Sítio Joanhina (Diadema), Jardim São Francisco (Embu) and Parque dos Químicos (São Bernardo). Parque Andreense (Santo André), which was already object of study in the course of atelier (workshop, studio) in 2000, has project, to be approved, promoted by the Superintendence of the Municipality and then it must be only accompanied. In regard to others, the precise definition of the stage of development to which the project must reach will depend on the more or lesser degree of involvement of the respective Superintendences during the development of the work.

2-For one of the cases, to be chosen among one of the above quoted, the proposal must include not only the area of the grouping of houses but the entirety of the micro-basin where it is based. It will be treated as pilot-project, which can contribute as a concrete reference for the formulation of “environmental and urban directives and norms” for the Area of Protection and Recuperation of the Springs (Sources) (APRM) where it is based (terminology used by the state law 9.866/97 – Protection of the hydro-basin of the springs of regional interest of the state of São Paulo). It will be developed proposals for the area of the micro-basin that are not yet urbanised, searching for sensible uses, considering also the possibility of technological alternatives for the development of agriculture and cattle-raising activities compatible with the necessity to preserve the quality of water in the springs. The group of proposals, at the level of preliminary project, must include: directives of using and occupying the soil of the areas to be conserved, removed and preserved; proposals of complementation or modification of the services of local infrastructure and in the surroundings, in order to better the quality of the spring; report geotechnical and indication of the risk areas; proposals of superficial drainage, sewage collection and pavement; proposals on location of effluents; solution of new grouping for cases of inevitable removal; estimation (assessment ,evaluation)) of costs.

3-Assessment of the quality of water of the spring at the micro-basin (analysis of a sample), in order to allow the comparison to its conditions after the works (buildings, constructions), considering that they will be possible in the Phase II of the project. For the case of Parque Andreense, which is already through work of improvement of the permeability and in where it is foresighted the soon starting of the construction of a system for the treatment of effluents, the accompaniment of the evolution.

4- Proposals of the juridical alternative for regularisation.

Systematisation/typology

5- Continuation and conclusion of the survey and systematisation of the process in course in the Office of the Promoters of Justice of the Metropolitan Region of São Paulo City (RMSP), regarding the tests and evaluation done in the Phase I, in order to define with more precision the typical situations;

6-Elaboration of a comparative charter, for reference, of what is established for the areas of the south springs of the RMSP in the various federal, state and municipal laws;

7- Continuation of the investigations and debates upon the juridical alternatives of regularisation of the groupings of houses, accompaniment (specially in the Judiciary) of the follow-ups of the already proposed alternatives which were headed by the Ministério Public, specially in cases in course, as Parque Ideal e Jardim Pinheiros, in São Bernardo (referred in annex 7);

8- Evaluation of the organisational systems and the functioning of the urbanism and establishment of the municipalities, developing better solution for the whole process: prevention, licensing, inspection, sanction. For that, the system of accompaniment/monitoring (control) of the main vectors of expansion and the points of more pressure in the areas not yet occupied of the already-involved municipalities must be also studied.

9- Survey of the programs and alternatives of resources for projects of urban and environmental suitability: procedures for access to funds and financing of environmental protection, promotion of infrastructure and social houses;

Theoretical-conceptual development

10- Maintenance of regular monthly meetings (intern seminars or conferences with guest experts – including environmental, juridical, urbanism, housing and financing area), between researchers of the LabHab-USP, CAOHRB, Criminal Prosecutors and technicians of the involved Municipalities:

11- Continuation of the debate upon the “nature of the irregularity” and upon the urbanistic instruments and their effectiveness to the protection of the areas of the springs;

Capacitating

12- Promotion of two wide seminars between Criminal Prosecutors (Promoters of Justice), Municipal Public Agents (of RMSP) and State Public Agents responsible for the approval and control of the use and occupation of the soil and University, in order to debate the elaborated proposals and experience, and also how they can be used in similar cases;

13-The development of the works, in view of the proposed methodology and procedures, will offer through their duration a permanent process of capacitating, of transference and increase of knowledges among the groups of participants: team of LabHab, Criminal Prosecutors (Promoters of Justice), Municipal and State Public Agents and undergraduate students (students of the course of atelier Built Environment and Sustainable Development), who will benefit from the experience and also will contribute with their academic works to the formulation of the sensible proposals on the adaptation of the grouping of houses according to urban and environmental requirements. In the technical area, it is foreseen the capacitating of all persons involved in the research regarding the utilisation of methodology and technique of image processing and data collection. The use of images – ortophotos (?) and from satellites- is important both to the Superintendences (records and inspection)

and to the Ministère Public (support for the composition of reports). For that it will requested courses for at least one member of each institution who will be responsible to transmit to his colleges the techniques learned regarding the work with images.

Publications

Systematic publication of the produced material by the research. One can already outline some possible titles and contents:

14- Debates and interpretations of the utilisation of part of legislation on urbanism and environment, specially the more recent ones: City Statute and New Civil Code. The annex 6 -The exigency of the law and the term of adjustment of conduct be observed and obeyed- and annex 7 -Alternative measures for the protection of the springs- indicate that direction;

15-Publication of material about methodology and procedures and that presents developed projects in a synthetic form. The annex 8 –Juridical-urbanistic regularisation of houses groupings in areas destined for the protection of springs in São Paulo- and 9 –Reflection and syntheses based upon the developed projects during the course Built Environment and Sustainable Development, 2001 and 2002- are initial attempts towards this proposal. A better developed product must deepen the analysis of methodologies, including records of uses, buildings and inhabitants, stages of development (considering the various actors who are involved: inhabitants, former owner of the land, Superintendence, Municipal Council, Secretary of Environment, Notarial Officer, Ministère Public, Researchers, Technicians) and directives of intervention (physical project) which are applicable to similar cases in the Municipalities or in other places where illegal houses groupings can be found in areas whose environment is fragile.

16- Syntheses of the records of bibliography and repertoire already developed and in course of being developed, to be used to environmental qualification, creating one “catalogue of references”, destined both to institutional use by the Ministère Public and Municipalities and to academic purposes, by the University – particularly the material to be produced by the research of the holders of scholarships Gustavo Chacon (Reduction of the environmental impact of buildings in areas of springs) and Renata Lucas (Alternatives for treatment of domestic sewage in areas of springs)

17-Presentation of texts and conferences which will take part in the two wide seminars of the team and partners (item 12).

Spreading and Repercussion

18-Preparation of final report, showing the progress and difficulties and the ways used to overcome them. It must offer support to the elaboration of directives and criteria for the implementation of new house groupings and preparation of Plans of sub-basins, according to what establishes the Law no. 9.866/97 –Protection and Recovery of the Hydro Basins of the Springs of Regional Interest of the State of São Paulo. It will mean also important contribution to the action of the Ministère Public in the field of Housing and Urbanism, through spreading among the state Criminal Prosecutors (Promoters of Justice) grounds and suggestions to the elaboration of Terms of Adjustment of Conduct and Civil Actions, and also the qualification of the technicians of its support-staff.

19-Participation in events, conferences and debates on the theme and spreading of the produced works. Beside the publication of the syntheses already foreseen (referred in items 14 to 17), the material developed must be spread by the specialised periodicals

of the partner-institutions: Synopsis and Review Pós (FAU) and Themes of Urbanistic Law 4 (CAOHURB – book already foreseen for 2003) and in the respective electronic sites.

6- Team of Participants/powers and responsibilities

Team of participants: Team responsible for the project in the FAU-USP- Laboratory of Residence and Human Groupings: Professor Erminia Maricato (Coordinator of –the LabHab), Maria Lucia Refinetti Martins (responsible for the research), Minoru Naruto; Partner-Team of the Ministério Public of the State of São Paulo - Centre for Operational Support of the Office of the Promoters of Justice (Criminal Prosecutors) of Residence and Urbanism: Promoters José Carlos de Freitas, Cláudia Maria Beré, Marco Antonio Pereira; Wide Team (co-partners): 3a. Promoter of Justice of Embu: Promoter Roseli Naldi Souza, 1a. Promoter of Justice of Diadema: Promoter Stela Tinone Kuba, representatives of the Superintendences of Diadema, Embu e Santo André; Researchers and holders of scholarships: Robson Moreno (Master degree), Giselle Tanaka, Gustavo Chacon, Mariana Mancio and Renata Lucas (Technical Training), Andrea Vilella, Luciana Ferrara e Tatiana Nobre (Scientific Initiation); apart from 30 students of the non-obligatory course AUP-547 –Built Environment and Sustainable Development.