

# Land Lines

Newsletter of the Lincoln Institute of Land Policy

## Using Land Value to Promote Development in Cuba

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Researchers from the Lincoln Institute are working with the Group for the Integrated Development of the Capital (GDIC) in Havana to better understand how land and increments in land value can be utilized to facilitate the physical rehabilitation and economic development of Cuba.

During the Soviet era, Cuba's economic environment was characterized by a top-down model in which state agencies were the principal economic and development actors. Planning was autocratic and inflexible; trade depended primarily on the socialist bloc countries; financial capacity was centralized in the national budget; and there was no tax system. Legal, financial and economic reforms implemented since 1990 have helped to create an institutional environment more conducive to economic efficiency and to allow Cuba's participation in the global market (see *Figure 1, page 3*).

However, the Cuban economy still faces tremendous difficulties that have seriously affected the country's capacity



A typical street scene in Havana.

to maintain living standards, the quality of social and public services, and economic development programs in general. For example, Cuba's GDP in 1995 was only one-half its 1989 level and import capacity has fallen from roughly 8 billion to 2 billion US\$ annually.

The Cuban government has tried to promote tourism as its primary means to generate much-needed hard currency quickly. As a Caribbean island, Cuba offers substantial tourist attractions, ranging from magnificent beaches to the architectural heritage of Old Havana, which has been recognized on UNESCO's World Heritage List, as well as other natural, historical and cultural sites around the country. However, stimulation of the tourist industry requires international partners to undertake the development of hotels, shops, restaurants and airport expansion. The fact that the state owns most of the land available for development is a critical element in Cuba's strategy to attract foreign developers and tourists.

The government's plan to build its tourist industry has shown some success. In 1967 there were about 2,000 tourists to the island annually, whereas in 1998 over 1.4 million visitors traveled to Cuba. During the last five years alone, foreign investors have increased their operations in Cuba in several economic sectors, particularly in tourism. As a result 2,000 new hotel rooms have been added in Havana, with a total capacity now surpassing 10,700 rooms. Nationwide there are 31,600 hotel rooms, and the target is to increase capacity to 40,000 over the next two years. About 80 percent of recent construction activity in Cuba is related, directly or indirectly, to the tourist sector. Some estimates indicate that state-owned land and buildings already committed to these new projects represent around 500 million US\$. Significantly, this development has been achieved without the existence of a formal land market.

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## Development in Cuba

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### Land-based Policies to Stimulate Development

Land has been used in various ways to help stimulate development and to generate public revenues. First, the Cuban government has used land as its capital contribution in joint ventures with international developers. For example, VanCuba Holdings, S.A., a Canadian company, is a 50-percent partner with the Cuban government in a project to build 11 hotels. Cuba



**Buildings of many diverse architectural styles are found in Havana's older neighborhoods.**

contributed the land as its 50-percent share and the Canadian company is expected to invest 400 million US\$. Many such joint venture arrangements, particularly real estate and tourism projects, have been made with development companies from Canada, Spain, Italy and Israel.

Since land is Cuba's principal contribution to these international ventures, a key issue is to assure that the financial value of the land represents 50 percent of the project's social capital. In cases where the monetary value of the contributed land is less than 50 percent, the foreign partner has often been instrumental in helping its Cuban counterpart apply for credit from international banks or financial institutions to make up the difference. More recently, the credit to assure 50-percent Cuban participation is obtained at low interest rates directly from the Central Bank of Cuba rather than from international entities.

A second mechanism to stimulate development is the increased use of land leasing agreements for commercial and office projects. Leasing is preferred since the direct sale of state-owned land is pos-

sible only in very special situations. The leasing terms are negotiated on the basis of the specific land value, and if accepted by all parties are established for 25 years. The lease may be reviewed and extended for an additional 25 years if the parties involved in the renegotiations agree upon the new criteria. In Havana, several projects with foreign investors are currently operating under such an agreement, and the estimated area under development in the city surpasses 100 hectares.

Third, the Cuban government has entered into direct rental agreements for state-owned land in free trade zones, which in some cases generate significant revenues. About 120 foreign private and public-private enterprises have been established already in two trade zones in Havana.

Both the leasing and direct rental agreements for state-owned land provide important new funds to the national budget. These resources are then used to improve the standard of living in local communities by providing social services (education and health), dev-

elopment economic projects, upgrading and enlarging major infrastructure and other amenities, and generating jobs. Some examples of city and community benefits that have been supported largely by these revenues are the new Havana International Airport, the creation and improvement of a digital telephone system, and the metropolitan park projects in the Almendares River area.

A different but very interesting set of instruments to mobilize land value increments resulting from public investment has been developed by the Office of the Historian, the public agency responsible for promoting, financing and developing the revitalization program in Old Havana. This Office has begun to collect both indirect and direct taxes totaling 35 percent of revenues from private enterprises not related to the Office, such as hotels, commercial businesses and restaurants that have benefited from the Office's efforts to rehabilitate the historic district. These external revenues, as well as revenues generated by projects initiated by the Office itself, are used in a kind of revolving fund

to support further investments in the built environment. They also fund a variety of social programs, including housing, nursing homes, and educational and cultural activities in Old Havana. The Office's total revenues surpassed 40 million US\$ in 1998 and 50 million US\$ in 1999. The government is also negotiating other kinds of revenue-generating programs to capture land value increments to support the rehabilitation of the Paseo del Prado and the Rampa areas of Havana, as well as the Boca de la Chorrera redevelopment project at the mouth of the Almendares River.

### Difficulties with Implementation

Cuba's implementation of these various tools for capturing land value increments has not occurred without problems. In the case of the indirect and direct taxes on revenues introduced in Old Havana, several businesses have claimed that their revenue sources are not a result of the efforts by the Office of the Historian to improve the district, and therefore should be exempt from the tax. For example, the headquarters of the Cuban Fuel Distribution Company (CUPET) is located in a valuable area in the heart of the historic center but does not pay the tax. The company argues that its revenue sources (i.e., its facilities and distribution networks) are located outside the center and therefore do not benefit from the rehabilitation process.

The 25-year leasing agreements illustrate a different problem arising from the implicit dilemma between short-run vs. long-run goals, because the agreements do not include a periodic updating of lease payments. On one hand, if the payments are set on the basis of existing use and value, the public authorities may lose significant financial resources that could accrue from the impacts of these investments and other changes in land value over the 25-year lease. However, if the authorities attempt to capture the anticipated higher value immediately, they will have more difficulty making such expensive deals with wary investors.

The lack of an adequate legal system for real estate development and mortgage lending in Cuba is a major obstacle to implementation of all these instruments. Proposed new real estate laws have been drafted but legislation expected to be introduced last year has not yet been adopted. This uncertain and unpredictable legal situation can prevent the formation of seri-

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## Figure 1: Summary of Key Reforms in Cuba

- 1990** Opening of the economy to foreign investors
- 1991** Reinstatement of Cuban international trade
- 1992** Introduction of modifications to the 1976 Constitution
  - Introduction of new forms of non-state property
  - Elimination of the state monopoly on international trade
  - Expansion of foreign-owned private market enterprises
- 1993** Transfer of formerly state-owned rural land to workers
- 1994** Restructuring of the central state administration
  - Opening of agricultural markets based on supply and demand mechanisms
- 1995** Reestablishment of indicative planning and introduction of financial indicators
  - Beginning of state business restructuring
  - Regularization of the circulation of hard currency in the banking system
  - Enactment of new laws on foreign investments
  - Gradual introduction of components of a tax system
  - Enactment of the law restructuring the banking system
- 1997** Enactment of the law on free trade zones

ous business partnerships, which normally require long-term vision, stability and transparency. Furthermore, this lack of legal protection may scare away the highest quality developers who would be most able to carry out sophisticated larger projects. As a result, the Cuban government has had fewer strong proposals to evaluate and has been accepting smaller projects with less established international developers.

These smaller projects are sometimes problematic for several reasons. First, they are often located in the most desirable parts of Havana, although such developments are not necessarily appropriate for those neighborhoods. Second, they must rely on existing infrastructure since they are not large enough to provide that additional investment. Third, the aesthetic quality and even the basic service standards of these new hotels or apartments are sometimes questionable. Since these buildings affect the overall image of the city, they may even have a negative impact and contribute to the devaluation of their neighborhood.

A related problem is the uncertainty that developers experience in having to deal with new institutions and policy tools that are being negotiated within the Cuban government at the same time they are being implemented in the field. While these policies are under review, the government has introduced a moratorium on new development in certain areas of Havana

and has slowed the real estate negotiation process in general. Without stability and trust in the relevant government agencies and policies, private investors for commercial or residential projects are discouraged by the risks inherent in making long-term development decisions. This has an obvious effect on the costs of development and the expected internal rates of return.

Finally, there are the difficulties of assessing land values in the absence of formal markets, let alone transparent land transactions. Government agencies involved in development have two choices. One is to use administrative prices in determining the value of leases or contributions, even though the basis for these prices may not reflect the actual value of land attributes. Alternatively, the agencies must negotiate the price with foreign developers based on the dynamics of the particular site. Both options are limited by the lack of ongoing independent land market transactions on which to evaluate actual prices.

### Land Policy Dilemmas

Although Cuba has made substantial progress, it faces many challenges and dilemmas in using land efficiently to stimulate development and generate revenues. For example, the smaller, more expedient projects may result in faster development and revenue flows, but they are not able to create a broader vision for future land uses, and they frequently cause damage to the

historic fabric and natural environment. The larger, better-financed projects can create such a vision and enhance the environment but are much more difficult to negotiate and take longer to build.

Furthermore, the larger projects may require a substantial investment in basic infrastructure because of the poor quality of existing conditions. The government has not had the resources to make these investments, thus threatening the economic sustainability of new urban interventions. Small projects cannot support such investment burdens. While the large projects may be able to finance infrastructure investment, they run the risk of becoming exclusive enclaves separated from the surrounding community when they provide infrastructure only as part of their own project. The question, then, is how to finance the infrastructure in a non-exclusionary manner to encourage other small-scale development. Three alternatives are being pursued simultaneously, but are subject to continuing debate:

- small, individualized interventions using leases to occupy infill areas in the city that are already well-endowed with infrastructure;
- enclaves of large resorts and gated communities that can support infrastructure through exactions and development fees, with other controls built into the negotiation to prevent exclusionary access; or
- broader value capture policies to use real estate as an asset to generate revenues in a way that preserves the historical heritage and community solidarity, and prevents social segregation, sprawl and other negative implications.

Another aspect of the debate among Cuban planning and development experts concerns the pros and cons of introducing open land markets with a strong tax system vs. maintaining the existing public management of state-owned land. Those who advocate for introducing open land markets feel it is a necessary step to encourage development so that Cuba can benefit from linkages with the global economy and different types of foreign investments. These experts also argue that Cuba must continue to develop mechanisms for capturing publicly created land value.

Those who argue for continuing the current system point to Cuba's success in

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## Development in Cuba

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reducing spatial segregation, promoting balance in social and urban services, preserving historic and other patrimony values in the city, and reserving enough land for future development projects. These advocates point to the recent Latin American experience with free markets, which has resulted in increased segregation between rich and poor areas, a lack of social services in poorer areas, increases in urban violence, speculation, and growing environmental problems.

In summary, some of the priority issues on Cuba's land development agenda are the establishment of a legal system with clear parameters and the introduction of more rigorous and transparent mechanisms for valuing land and buildings. In addition, diversification of the types of Cuba-based partners available to participate in international development projects

will help establish criteria for a longer-term planning perspective that will encourage large-scale infrastructure projects and support the continuing provision of benefits to the community. These concerns are not so different from land policy challenges in other developing countries. The continued study of land value as an instrument for development in Cuba offers important lessons for researchers and public officials throughout Latin America. **L**

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## On the Web

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"Participatory Planning and Preservation in Havana: Q & A with Mario Coyula." *Land Lines* 9:4 (July 1997). (English only)

Ricardo Núñez. "El suelo urbano como factor de inclusión económica y social: La experiencia de La Habana." Working paper. 1999. (Spanish only)

Ricardo Núñez. "The City of Havana: The Practice of and Perspectives on Urban Value Capture." Working paper. 1999. (English and Spanish)

Ricardo Núñez and Carlos García Pleyán. "Regeneration in Old Havana and the Role of Value Capture." Working paper. 1999. (English and Spanish)

Peter Pollock. "Exploring Cuba's Urban and Environmental Heritage." *Land Lines* 10:5 (September 1998). (English only)

# Challenges in Implementing Colombia's *Participación en Plusvalías*

## Carolina Barco de Botero and Martim Smolka

Value capture instruments are widely considered to be beneficial fiscal planning mechanisms, even though they are difficult to implement. Colombia is notable in Latin America for its unique and long-standing experience with institutionalizing value capture through collecting the *Contribución de Valorización*, a kind of special assessment, and the *Contribución de Desarrollo Municipal* (Law 9 of 1989), which preceded the current instrument, *Participación en Plusvalías*.

Since 1921 when the first such legislation was introduced, Colombia has developed a fiscal culture in which people are aware of and accept value capture instruments as a legitimate revenue-raising mechanism. For example, in 1968, at the height of its use, the *Contribución de Valorización* accounted for 16 percent of local revenues in Bogotá and about 45 percent in Medellín; in the early 1980s it raised about 30 percent of total revenues

in Cali. Nevertheless, because land still plays an important role as a hedge against inflation in places like Colombia, where capital markets are not highly developed, the implementation of such devices still meets with strong political resistance from many constituencies, ranging from powerful landowners and developers to low- and moderate-income families for whom land is an important source of personal savings.

Building on this experience, Law 388 of 1997 creating *Participación en Plusvalías* decrees that all municipalities must design and approve a ten-year master plan (*Plan de Ordenamiento Territorial—POT*) and adopt *plusvalías* as one of the plan's main sources of income. The revenues raised through *plusvalías* are to be used primarily for the provision of social housing and infrastructure in under-served neighborhoods, as well as for public works of general interest. The law establishes three administrative conditions for applying the *plusvalías* instrument as part of the POT:

1. when land changes from one category to another, especially when rural land with low development potential is included within the master plan's growth boundary and therefore becomes designated as land for urban expansion or as suburban land;
2. when additional development (density) rights are authorized in an area; or
3. when an area changes use, especially from residential to commercial use.

The *Participación en Plusvalías* is grounded in the legitimate public right to participate in capturing land value increments resulting from administrative actions such as changes in zoning or density that may generate substantial windfalls for the landowner. It is important to note that this instrument is not a tax, a contribution or a fee, but rather a mandated right of the public to "participate" in the value generated by government functions aimed at enhancing urban development. Law 388 and its accompanying decrees define the general parameters

for using *plusvalías*, but the municipalities are required to determine its specific procedures. However, many mayors and other public officials are concerned about the law's ambiguities and are struggling with the process of applying both the law and the *plusvalías* instrument.

To address the need for a forum in which public officials and other experts could discuss this problem, the Lincoln Institute and the Bogotá Planning Department held a seminar in December 1999, before the deadline for approval of the legal master plan (POT) on December 31. The seminar convened practitioners actively involved in the implementation process, including planning directors from major cities, representatives of national public agencies and ministries, representatives of institutions in charge of property assessments, lawyers, and scholars involved in the design of the instrument. One immediate outcome of the seminar was a successful lobbying effort to change the deadline to June 30, 2000, to allow more time to review and revise the problematic POT provisions.

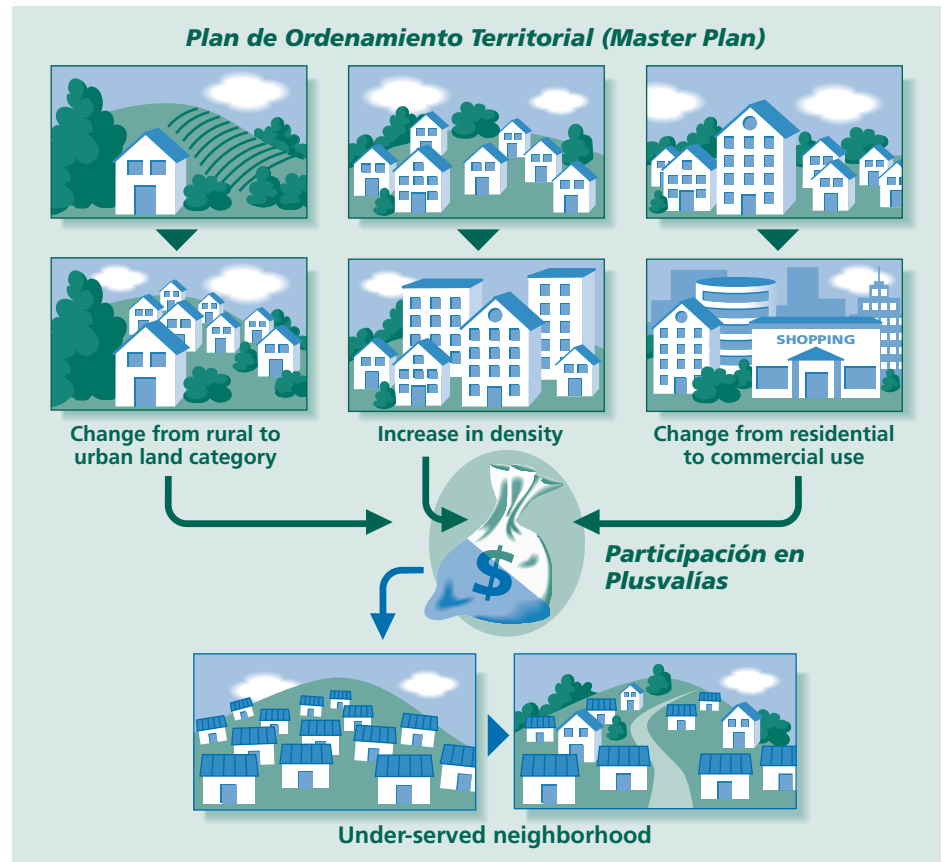
### Key Implementation Issues

*Application of plusvalías to different situations.* Most municipal representatives at the seminar agreed that *plusvalías* should be used only in those situations that result in a clear and substantial windfall, in order to generate greater citizen approval and a simpler administrative process during the first phase of implementation. The general consensus is that *Contribución de Valorización* has been accepted because the increase in the value of land that benefited from public investment was clearly understood by the owners, so they have been willing to pay the fee. In Bogotá, for example, *Contribución de Valorización* has been one of the major means for building new streets since 1969.

By comparison, *plusvalías* are applied only to situations in which a higher land value is specifically associated with a public land use decision defined in the POT, such as changing the land category, its density or its use. Extending the growth boundary to include rural land that can be developed in subsequent years is an explicit situation in which the change in land price is evident. Most representatives of municipalities felt this was the most obvious scenario for application and should be the main focus of the instrument in its first phase.

*Accuracy of land value assessments.* Law 388 suggests that the date for the base land price against which the gain is measured is to be July 1997, the date when Congress approved the law. However, it is not clear whether and how the municipalities can determine that land price in subsequent years. The problem is that the initial base value to be compared to the current value may already be influenced by "rumors" circulating about land designations in the master plans. Should the value be calculated before the rumors of urbanistic changes

highest and best use). Should the land value increment be based on the potential or the actual value? Should the legally defined formula for assessments apply to the potential buildable area even if the builder is not requesting a license to develop the site to its full allowable density? What happens when a property that has been assessed on a certain date is not completed? Although the law defines the concept of zones with similar geo-economic characteristics, it is not clear whether the landowner may legally request the assessment



begin to circulate, or just before the actual decision is made? How should cities treat land value increments generated by actions occurring between that base date and the approval of the POT? For how long is the assessment valid? What happens after, say, 15 or 20 years?

These questions are all the more relevant considering that land use norms established recently in some cities have already been capitalized in land prices, thus reducing substantially the current margins for the application of *Participación en Plusvalías*.

Furthermore, there are different legal implications about which relevant values should be considered (i.e., current use vs.

to be done on a property-by-property basis or on the basis of homogeneous zones.

The short deadlines established by the law for calculating both commercial prices before the master plan and new reference prices after adoption of the plan also cause serious concerns. For example, the law states that the mayor has only five days after the new POT is approved to determine new prices in the affected areas, and that all calculations must be accomplished within the next 60 days. The legal structure for adopting simplified cost procedures to allow assessments for homogeneous areas of the city rather than for individual plots is not clear on this point.

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**Definition of land categories.** Differences in land categories between Law 9 of 1989 and Law 388 of 1997 have led to questions of applicability. Law 9 included a suburban land category that could be developed at moderate densities on the outskirts of cities. For example, all of the developable land to the north of Bogotá is now in that suburban category, which permits residential densities of 160 inhabitants per hectare. The zoning proposed by the new master plan permits an increase to between 180 and 220 inhabitants per hectare. Law 388 states that the change from rural to urban use may be taxed, but does not address the suburban category, even though suburban land already has strong development

### Pros and Cons of Participación en Plusvalías

#### Pros

- reduces corruption insofar as it exposes benefits that in the past were negotiated under the table;
- reduces speculation;
- generates public revenues that are designated for redistributive purposes;
- reduces distortions in the distribution of urban land value increments;
- contributes to a better understanding of fiscal culture, thereby improving the collection of other assessments and taxes.

#### Cons

- introduces more red tape into the implementation of master plans and the process of licensing development of the built environment;
- legitimizes private appropriation of land value increments, since it leaves 50 to 70 percent of the *plusvalías* with the owner;
- incurs high administrative costs compared to the revenues it generates.

rights. Because of these difficulties, many cities prefer to treat suburban land as similar to urban land in order to avoid further implementation problems.

**Exemptions and special cases.** Land for low-income housing is exempted from *plusvalías*, but the law states that the land value increments must be calculated anyway. This may constitute an unnecessary additional cost, considering that 80 percent of all housing to be built in Bogotá within the next ten years will be low-income housing. How does this affect the fairness of this instrument on the remaining 20 percent of housing? How effective will *plusvalías* be as a planning instrument seeking to decrease speculation on land designated for social housing?

Another issue deals with wipeouts resulting from master plan designation of conservation zones or areas set aside for environmental protection through transfer of development rights (TDRs). Complaints from private agents of “takings” against their full rights of ownership raise important questions of compensation. Areas that already have been designated for high-density development but are not yet fully built also raise questions about the expectation component of land values.

#### Political and operational obstacles.

A continuing source of confusion and misunderstanding concerns the technical issues associated with the effective calculation of the land value increment. Can it or should it be implemented in cases when, due to general economic recession, all land values are allegedly declining? If landowners are either selling land at a loss or not initiating development on their properties at all, then, quite simply, no *plusvalías* would be available to the local administration. Theoretically, all that is needed is to distinguish generating effects (administrative actions) from trends in land markets. In practice, however, it is easy to understand that instruments of value capture are more robust, and more palatable politically, during the upswing of land price cycles than the downswing, as is currently the case in Colombia.

The political overtones of this issue become clearer when considering the substantial land portfolios that developers normally hold for strategic planning motives, including for speculation. In effect, urban planners are hard pressed to be more flex-

ible, if not magnanimous, in relaxing urbanistic norms and regulations in order to motivate developers during times of recession. However, this kind of pressure from developers may be simply an attempt to gain compensation for poor investment decisions in the past.

Sometimes developers complain that the municipality is setting the *plusvalías* fee too high in times of declining prices when recession may create disincentives for future investments in building improvements. However, a counter-argument based on the experience with *Contribución de Valorización* suggests that if the amount of *plusvalías* on the changing land use is considered to be overvalued, it follows that the change is probably not cost-effective and should not be proposed. It is also possible that a mistake was made in the feasibility study or the calculations.

Over and above these practical difficulties are certain implementation requirements in the law that affect its operation, such as the need to directly notify the landowner that the property is “liable” for *plusvalías*. Should the burden reside with the public administration or with the owner? Similarly, there are legal difficulties surrounding the moment when *plusvalías* should be charged to the property owner, as in the liquidation of properties or in the request for a license to change the use of land. Some grounds for complaints of double taxation could also be raised if an area to be densified (or receive any change in zoning) has received additional infrastructure on which the *Contribución de Valorización* provision was charged. The independence of this instrument from *plusvalías*, as stated by the new law, is important because of the existing option of calculating and charging the *plusvalías* for public works designated by the POT.

#### Adjustments Proposed by Municipal Officials

Public officials at the December seminar in Bogotá suggested a few ways to simplify the implementation of Law 388 by sacrificing precision in the calculation of the *plusvalías* in favor of expediency, transparency and compliance. This perspective is based on the belief that political will may be more important than technical consistency, at least in the early, transitional stages of implementation, in order to improve the chances of long-term success. A very telling and useful example was given

by officials from the city of Cartagena (500,000 inhabitants), which has been applying the *Contribución de Desarrollo Municipal* effectively since 1992. Their experience shows that the effect of density changes to a new lot should be similar with regard to the generation of *plusvalías* to the rate generated by the same kind of density change already observed in a different but comparable area of the city.

Participants also proposed restricting the application of *plusvalías* to the more strategic and dynamic areas of the city where the windfall potential is most apparent and expressive, rather than in areas where the land value increments are small. Furthermore, assessment of *plusvalías* should be based on homogeneous zones, not on individual plots. The *plusvalías* instrument also needs to be developed and phased in over time as the municipalities gain greater knowledge and sophistication in valuation and assessment techniques. The established nine-year period for the validation of the assessments of land value increments, therefore, should be subject to more frequent periodic review. Some practical transition rules, absent in the original formulation of the law, also will help facilitate the introduction of a new fiscal system.

Other suggestions were made regarding the adoption of master plans (POTs). Municipalities should use these plans, rather than some other valuation mechanism external to the POT, to identify areas where there will be a change in land use in order to determine whether, in fact, it is a higher use and thus subject to an increase in *plusvalías*. Before adopting the POT, the municipalities should identify such areas so the valuation and assessment techniques could be worked out ahead of time and the sense of uncertainty could be mitigated. Some participants even suggested using the POT to define the relevant ex-ante situation (or prior value) to determine the net land value increment.

In general, the participants agreed that the concept and aims of the master plan and *plusvalías* instruments are both acceptable and desirable. Many of the problems and issues discussed at the seminar and throughout the country pertain to the implementation of any value capture scheme, or any new fiscal or normative legislation for that matter. In this case there is certainly substantial room for improving the design of the implementation procedures, especially since changes to



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**A view of downtown Bogotá and new development expanding into the mountains.**

operational aspects are always easier to achieve than changes to the law itself. But, over and above the remaining formal difficulties, it has been clearly demonstrated that political will, accumulated technical expertise and the ethical commitment of the participants are all critical to perfecting this land policy instrument and implementing the highly commendable principles that inspire it. **L**

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**Fernanda Furtado**, a fellow of the Lincoln Institute, also contributed to this article. She recently completed her Ph.D. thesis (in Portuguese) on value capture in Latin America, at the Faculty of Architecture and Urbanism of the University of São Paulo, Brazil. One of her thesis chapters describes the situation in Colombia. For more information, contact [furtadof@gbl.com.br](mailto:furtadof@gbl.com.br).

## On the Web

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William A. Doebele. "The Recovery of 'Socially Created' Land Values in Colombia." *Land Lines* 10:4 (July 1998). (English only)

Margaret Everett. "Evictions and Human Rights: An Ethnographic Study of Development and Land Disputes in Bogotá, Colombia." Working paper. 1999. (English only)

Margaret Everett. "Human Rights and Evictions of the Urban Poor in Colombia." *Land Lines* 11:6 (November 1999). (English only)

Fernanda Furtado. "Instrumentos para la recuperación de plusvalías en América Latina: Debilidad en la implementación, ambigüedad en la interpretación." Working paper. 1997. (Spanish only)

Samuel Jaramillo. "La Experiencia Colombiana: La Contribución de Valorización y la Participación en Plusvalías." Working paper. 1999. (Spanish only)

Fernando Rojas and Martim Smolka. "New Colombian Law Implements Value Capture." *Land Lines* 10:2 (March 1998). (English and Spanish)

# Italy in Transition: New Approaches to Planning

Francesca Leder

The urban landscape typical of many small and medium-sized Italian cities is filled with historical richness but also with more recent incoherent and contradictory development patterns. As a result, planners are actively adopting new ideas and theories about urban planning and are studying policies and practices about open space from colleagues in other countries.

The concept of quality of life is a common theme in European planning programs seeking to improve the image and functionality of neighborhoods. This idea normally represents a complex set of values to describe socio-economic conditions, but it can also be a useful instrument to set policies, implement strategies, improve landscapes and preserve open spaces. As the quality of life in many Italian cities has improved over the past ten years, attention to the needs of urban settlements has shifted from the central historical districts to the peripheries. Smaller suburban and rural communities now are demanding better living conditions and enhanced local identity through broad-based citizen participation in urban planning and design projects.

England, France and the United States, in particular, provide inspiration to Italian planners and public officials concerned about how to better integrate urban planning and the natural landscape. The loss of what had been an important cultural tradition in Italy has resulted in a more simplified and standardized urban architectural language and a lack of consideration for open space as either a valuable natural resource or an opportunity for economic and cultural growth.

The European Union (EU) is also influencing important reforms in many aspects of governance and public administration. For example, Italy's regions, which have long been the dominant level of local government, are managing their territories with more sophisticated planning techniques based on the principles of sustainable development. At the same time, recently passed national fiscal and land taxation

reforms are helping the municipalities create new resources and policies for housing rehabilitation and for public services and infrastructure, such as schools, parks and sports facilities. For example, the Regional Government of Tuscany, through its 1995 Urban Planning and Development Act, has begun a number of institutional and administrative changes, including new planning tools and public grants that have encouraged urban regeneration projects and private-public partnerships to support their costs.

The Center for Urban Research (CRU) of the Department of Architecture at the University of Ferrara has been involved in many projects promoted by both the regional and the national governments. Most address both training programs for public officials and private professionals and initiatives to disseminate "best practices" in urban planning and land use. In the last few years, the Center has consulted with many municipalities, including Ferrara in the Emilia-Romagna region and Massa Marittima in Tuscany. While recognizing the different histories and needs of these two cities, the Center is helping their municipal authorities find new opportunities for economic and social development and for enhancing their quality of life.

## Ferrara

Located between Venice and Bologna in the Po Valley close to the river delta, Ferrara currently has about 120,000 inhabitants. The city's main development can be dated to the medieval period, but important transformations were introduced during the Renaissance by the Duke d'Este. Ferrara's distinctive network of streets, squares, gardens and buildings owe their design to the Duke, who in 1492 implemented the so-called "Addizione Erculea," which can be considered the first modern urban plan in Europe.

The basic traits of the urban fabric have not changed much since then. The historical center, enclosed inside a system

of walls, is still well preserved, and bicycles and pedestrians still outnumber cars. During the winter the fog often softens the buildings, giving the city a magical appearance, and the pace of life slows down as in ancient times. Ferrara also has strong tradi-



Entrance to a bicycle path inside Barco Park in Ferrara, with the factory in the background.

tions with agriculture and water, including the Po River, the delta and lagoons along the coast, and the extensive network of drainage and irrigation canals.

The city's beauty and sense of magic have influenced artists since the Renaissance, and Ferrara is home to one of the oldest and finest Italian universities, which is small but exerts an influential role in city life. At present, most jobs in the district are connected with government functions, education, research and design, medical services, agriculture-related industries and tourism. Ferrara's relative isolation with respect to the Italian "grand tour" has enabled the city to develop balanced cultural tourism policies over the years.

The Barco, a public park designed for the Duke d'Este as a private hunting area, offers the city an interesting opportunity to link urban planning and open space development. This semi-rural landscape is enclosed by the town walls, the Po River and a large industrial petrol-chemical factory. Supported by a special regional grant for urban rehabilitation, CRU is beginning research and planning for this project, which will also involve private sector con-



tributions to help realize this recreational and open space resource for the city.

Another important local government goal is to use the urban environment and surrounding landscape as elements to improve economic growth. The project involves extending the traditional idea of cultural tourism beyond the historic city to include a network of small rural communities. Visitors to Ferrara and the Po River Delta Park will thus have the opportunity to discover ancient villas, marvelous natural landscapes and archeological settlements, as well as inns, restaurants and other amenities throughout the region. At the same time, young people who do not want traditional jobs in farming and fishing will be able to find different employment opportunities and more reasons to stay in their towns. To accomplish this goal, the project is using a variety of planning strategies, including some EU measures that support economic regeneration through training courses and start-up enterprises.

Foreseeable constraints on the success of this project may come from some local residents who consider agriculture their only possible economic resource, a mentality strongly rooted in history. From the Renaissance until World War Two, people from other, poorer regions of Italy were brought to the Po valley to transform the wetlands into agricultural fields. Many of the original workers have become owners of small and mid-sized farms, and they fear the loss of their rights and traditions, even though the farm produce is of poor quality and it is very expensive to maintain flood controls over the fields. Winning the trust of both urban and rural residents is a challenge that will require collaboration to increase the quality of life of residents throughout the region.



FRANCESCA LEDER

Massa Marittima and the surrounding Pecora Valley.

### Massa Marittima

Massa Marittima is a small city in Tuscany with a population of about 10,000, sixty percent of whom live in small outlying towns. It also is the capital of the Colline Metallifere (Metal Hills) district, where for almost four thousand years silver, copper, and iron mines operated continuously. Mining started in the Bronze Age and continued throughout the Etruscan, Roman, and medieval eras, through the Siena domination and the Medici and Lorraine eras, until the present generation of large industrial corporations. Populonia, one of the most important Etruscan industrial centers, is twenty miles from Massa Marittima, and archeological remains are found near the steel center of Piombino.

The free commune of Massa Marittima passed the oldest known mining laws in the Western world at the beginning of the fourteenth century. The natural environment surrounding the city still bears the signs of this economic history. There are large forests, which once produced timber for the furnaces, and the countryside is only partially cultivated. A less attractive sign of this heritage are the highly polluted mine waste sites.

Massa Marittima experienced a severe economic and identity crisis when the last operating mine closed

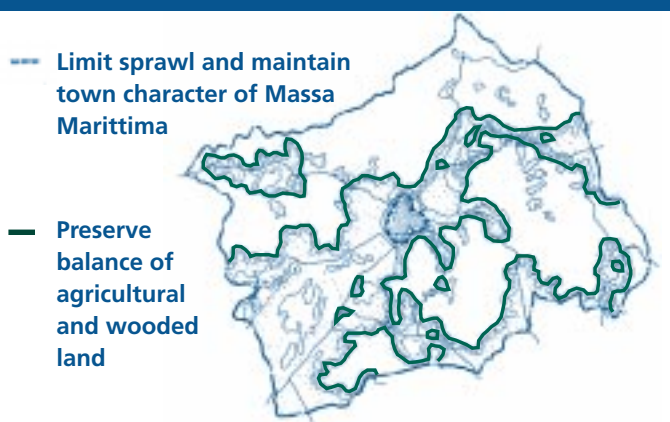
ten years ago. The local community was forced to make two major decisions. First, it had to change from being a specialized economy based on difficult but secure jobs and dependence on the mining company, along with a very protective welfare system, to becoming a diversified, dynamic and flexible economy where individual enterprise is central. Second, the residents had to accept tourism as the new main source of employment to take advantage of the most important local resources: the region's cultural heritage and its natural environment.

As in the case of Ferrara, the relative isolation and the late emergence of a tourism-based economy helped Massa Marittima work out more balanced strategies and policies for its future. In this case the opportunity was offered by the national ministries of Heritage and Environmental Policies to develop a national park for the Colline Metallifere district. The Massa Marittima city government asked the CRU to research this program using national and EU plans and grants. The core concept is an open-air museum of local history, which could help preserve the natural environment and also create new jobs for the young people, who have few employment alternatives.

One of the most important tasks in managing the new national park is to create a regional network of economic activities, facilities and public services related to both cultural tourism and the concept of environmentally sustainable development, based on EU economic

See **Italy** page 11

### Growth and Preservation in and around Massa Marittima



SOURCE: VARIATION ON THE THEME OF URBAN QUALITY: EXPERIENCES OF REHABILITATION IN SIX ITALIAN CITIES (1993-1998), EDITED BY FRANCESCA LEDER.

# Mediating Land Use Disputes: Pros and Cons

A policy focus report recently published by the Lincoln Institute addresses the pros and cons of using mediation to help solve land use disputes. The report is part of a series of Institute-supported publications and educational programs developed and presented by Larry Susskind, president of the Consensus Building Institute (CBI) and the Ford Professor of Urban and Environmental Planning at the Massachusetts Institute of Technology.

Susskind and his CBI co-authors Mieke van der Wansem and Armand Ciccarelli assert that land use planning both causes and sometimes helps to resolve land use disputes. While planning in America initially focused on finding the most technically efficient method of segregating land uses, its emphasis has shifted toward a concern for fairness in the allocation of public resources. This shift has led to an increased demand for stakeholder participation in land use decision making, thereby stimulating some conflicts but also offering a basis for effective dispute resolution. Consensus building as a method of resolving land use disputes offers a strategy for balancing technical considerations, broader political concerns about fairness, and conflicting stakeholder interests.

Consensus building techniques such as mediation and assisted negotiation have been used for almost two decades to resolve land use disputes in the United States. Research has shown that these techniques can produce outcomes that are more satisfying to the parties and leave them in a better position to deal with their differences in the future. Indeed, experience with public dispute resolution indicates that consensual approaches to handling resource allocation conflicts often yield outcomes that are fairer and more stable than traditional (particularly adjudicatory) methods. Some of the benefits claimed by its supporters are that mediation:

- fosters more efficient use of resources and better compliance;
- resolves underlying issues and develops a shared base of knowledge;
- achieves more creative, longer-lasting outcomes that use the best available

technical information; and

- increases confidence in government officials and helps empower disadvantaged groups, thus offering greater overall satisfaction with the mediated outcomes.

Critics of the mediation process argue that its benefits have been exaggerated and that it is nothing more than traditional politics in a new guise. Their primary arguments are that mediation:

- is neither faster nor less expensive than traditional processes of dispute resolution;
- cannot overcome the intrinsically competitive nature of land use planning; and
- results in only marginally better agreements which are neither precedent-setting nor definitive.

Critics also claim that mediators are not legally accountable to the courts or the parties involved in land use disputes and that bad agreements arrived at by incompetent mediators must ultimately be litigated anyway.

Despite these arguments, interest in mediation continues to grow, spurred on by the increasing supply of experienced mediators, growing familiarity with dispute resolution techniques, and increased legitimization of consensus building via laws, regulations, and state programs offering dispute resolution services. Using the results of a national study involving 100 communities around the United States that utilized assisted negotiation in an attempt to resolve local land use disputes, this report examines the pros and cons of pursuing such processes in what is becoming an increasingly complex political environment.

This illustrated report reviews the historical context in which land use decisions have traditionally been made, as well as the relevant literature produced by supporters and opponents of consensus building techniques. The Lincoln Institute and the authors hope this publication proves instructive to those who have to make decisions about whether and how to use mediation techniques to resolve land use disputes in their communities.

*For more information or to order the policy focus report, Mediating Land Use Disputes: Pros and Cons, call 800/LAND-USE (800/526-3873) or email to help@lincolninst.edu. 2000. 40 pages, paper. \$14.00 plus shipping and handling. Code: PF009.*

## Related Lincoln Institute Publications:

*Using Assisted Negotiation to Settle Land Use Disputes: A Guidebook for Public Officials*

Lawrence Susskind

and the Consensus Building Institute

This Guidebook offers step-by-step advice on assisted negotiation based on a study of local land use disputes in 100 U.S. communities between 1985 and 1997. It answers frequently asked questions about why and how to use assisted negotiation, the risks and preparations that are involved, common obstacles and strategies to overcome them, and issues in hiring a professional mediator or facilitator. Brief case studies illustrate particular steps in the negotiation process, and resource information includes an annotated bibliography and lists of organizations and state agencies that offer dispute resolution services.

*1999, 26 pages, paper, \$12.00 plus shipping and handling. Code: 134-4*

*"Resolving Land Use Conflicts through Mediation: Challenges and Opportunities"*  
David Lampe and Marshall Kaplan


This working paper contains eight case studies of mediation efforts to resolve land use conflicts. The cases were prepared at the Institute for Policy Research and Implementation at the University of Colorado at Denver, with the support of the Lincoln Institute and in conjunction with the Consensus Building Institute. The cases describe the context and substance of each conflict and the different approaches used by the mediator to resolve the conflict. Lessons learned about mediation are summarized in the authors' introduction and within each case study.

*1999, 94 pages, \$14.00 plus shipping and handling. Code: WP99DL1*

## Italy

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measures. By sharing these resources, the towns can reduce local competition and maximize the benefits to all residents. The core of the CRU's proposal is to create new opportunities for cooperation among different levels of public administration and public-private partnerships to promote and finance projects of public interest, such as infrastructure, sports facilities, urban and rural parks, and other resources. A final decision on a national grant to fund the Massa Marittima project is expected in March from the Ministry of Public Works.

These two case studies represent the kinds of complex planning problems that are on the agendas of many local governments throughout Italy. Learning from the best practices and examples of other countries is one of the methods that Italian planners and researchers are using to implement innovative approaches to planning the future of Italy's historic landscape. 

**Francesca Leder** is professor of urban theories in the Department of Architecture at the University of Ferrara. She was a visiting fellow of the Lincoln Institute during the fall of 1999 to study American planning practices regarding urban parks and open space. Contact: [frleder@rin.it](mailto:frleder@rin.it).

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Tijuana, Mexico

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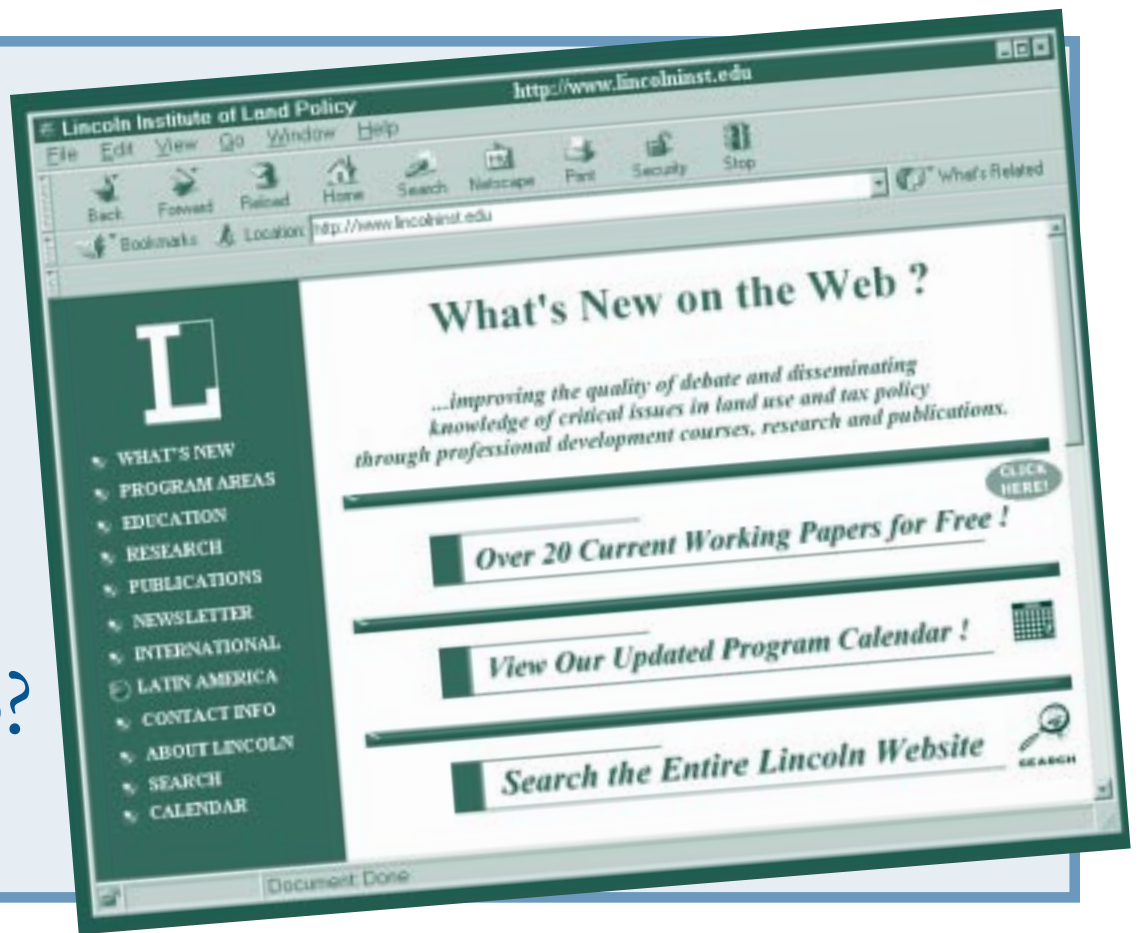
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