Collaborative Decision-Making Processes in Planning: Opportunities and Challenges in the City of Rafaela, Argentina

Maria Belen Alfaro

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COLLABORATIVE DECISION-MAKING PROCESSES IN PLANNING:
OPPORTUNITIES AND CHALLENGES IN THE CITY OF RAFAELA, ARGENTINA

A Thesis Presented

By

MARIA BELEN ALFARO

Submitted to the Graduate School of the
University of Massachusetts Amherst in partial fulfillment
of the requirements for the degree of

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COLLABORATIVE DECISION-MAKING PROCESSES IN PLANNING:

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ABSTRACT

COLLABORATIVE DECISION-MAKING PROCESSES IN PLANNING:
OPPORTUNITIES AND CHALLENGES IN THE CITY OF RAFAELA, ARGENTINA

SEPTEMBER 2013

MARIA BELEN ALFARO, B.A, UNIVERSIDAD NACIONAL DEL LITORAL, SANTA FE, ARGENTINA

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There is a large body of literature on the planning field on the topic of collaborative processes of decision-making, particularly in the United States and Europe. However, there appears to be less debate on the subject of complementing these ideas with contributions from urban governance, which are further explored in the public policy field. This research aims to contribute to that complementary work.

This thesis presents first a theoretical analysis of collaborative rationality and urban governance contributions, focusing on articulating those aspects that can offer a more holistic framework for addressing urban issues in a more inclusive way. Second, it provides a case study that takes place in the City of Rafaela, Argentina. While the ideas of governance have been encouraged in Argentina as part of the process of decentralization initiated in the 1980s, the contributions related to collaborative planning have had less diffusion in a context where a more traditional approach on the field still predominates. The case study consists of an assessment of the regulatory and institutional framework that affects planning and the exploration of two contentious processes that took place recently in the City. One of them is the ‘Downtown Revitalization’ project and the second one is the decision regarding the ‘Future use of the Old Bus Terminal’, which to some extent is related to the first project. Several interviews with key
actors were conducted in order to gather the information, which was combined with public and media documentation available.

The articulation between theory and the case study helps to understand how significant decisions regarding uses and renovation of urban space are made as well as the opportunities and challenges to implement more collaborative processes in planning. The results show that the combination of the significant aspects of each body of theory can help to better address conflicts that arise regarding urban space, while increasing citizen participation and addressing issues of inequality in the process of decision-making.
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LIST OF ACRONYMS

AAMBA: Association of Friends of the Municipal Museum of Fine Arts: Asociación Amigos del Museo Municipal de Bella Artes “Dr. Urbano Poggi”

ACDICAR: Civil Association for Development and Innovation, Agency of Rafaela: Asociación civil para el Desarrollo y la Innovación Agencia Rafaela

CABA: Autonomous City of Buenos Aires: Ciudad Autónoma de Buenos Aires

CAD: Complex Adaptive Systems

CAME: Argentinian Confederation of Medium Enterprise: Confederación Argentina de la Mediana Empresa

CCIRR: Chamber of Commerce: Centro Comercial e Industrial de Rafaela y la Region

CCS: Social Advisory Council: Consejo Consultivo Social

CEPAL: Economic Commission for Latin America and the Caribbean: Comisión Económica para América Latina y el Caribe

CM: Municipal Council: Concejo Municipal

COFEPLAN: Federal Council of Planning and Territorial Organization: Consejo Federal de Planificacion y Ordenamiento Territorial

DEM: Executive Municipal Department: Departamento Ejecutivo Municipal

Frentistas: Property Owners with front of building

ICEDEL: Training Institute for Local Development: Instituto de Capacitación para el Desarrollo Local
INDEC: National Institute of Statistics and Census of Argentina: Instituto Nacional de Estadísticas y Censos de Argentina

MINIPLAN: Ministry of Federal Planning and Public Investment: Ministerio de Planificación Federal e Inversión Pública

NGO(s): Non-governmental Organization(s): Organización(es) No gubernamentales

SDUSyV: Department of Urban Development, Land and Housing: Secretaría de Desarrollo Urbano, Suelo y Vivienda

SGyC: Department of Government and Citizenship: Secretaría de Gobierno y Ciudadanía

SGyP: Sub-Department of Participation and Management: Subsecretaría de Gestión y Participación

SOP: Department of Public Works: Secretaría de Obras Públicas

SOPyPU: Department of Public Works and Urban Planning: Secretaría de Obras Públicas y Planeamiento Urbano
CHAPTER 1

INTRODUCTION

Context and Problem

As part of the political-constitutional frameworks for the restructuring and re-articulation of state power that has been taking place globally as a result of the capitalist crises of the Nation-State (Brenner, 2003), several countries have experienced a process of increasing devolution and decentralization of power, from the national level to the lower levels of governments. Underlying this trend, the theoretical basis for the changing political framework argues for a decrease in the role and intervention of national governments as compared to the previous centralized model of governing (De Mattos, 2004; Cao and Vaca, 2006).

In Argentina, these changes initiated in the 1980s and aimed to bring new opportunities to local governments in the process of defining their own policies. As a result, local governments have achieved a greater relative autonomy, mainly through devolving of planning and administering responsibilities previously residing with national government (Orlanski, 1998). Some of the aspects that were decentralized are public services and local urban issues (Borja, 2007).

International cooperative institutions, such as the World Bank and the United Nations, have played an influential role in encouraging these ideas of new modes of governance in developing countries. In line with their goals, these and other financial institutions, such as the Inter-American Development Bank and the International Monetary Fund, have promoted several economic policies and programs to help other countries overcome the socio-economic inequality of territories, particularly after the worldwide economic crisis of the 1970s. However, in most of these cases the concepts were implemented without a critical understanding of the specificities of specific communities and territories.
Some of the specific objectives of decentralization have been to increase the effectiveness and efficiency of public administration and decrease the hierarchical bureaucracy of the State. In relation to those changes, the restructuration promised a closer relationship between policy makers and citizens, followed by higher degrees of citizen participation, which would increase democracy and bring greater social equity.¹

Nevertheless, this process of restructuration of the State came with several limitations as well as challenges for local governments, as the literature on the topic highlights (Orlansky, 1998; Cao and Vaca, 2006; Borja, 2007; Cravacuore, 2009). These constraints included limited local autonomy to create more revenue, and the dependency of cities and towns on the budget of provincial and national governments. In addition, the unclear delimitation of responsibilities on different governmental levels (local, provincial and national) was reinforced by the out-of-date regulations. The increase in the privatization of some services and deregulation of some economic activities, which were also part of the neoliberal policies implemented during the 1990s in Argentina, were also characteristics of this process. This restructuration left local governments with an overwhelming policy agenda and limited opportunities to achieve the objectives of the process.

As a result, the interrelation of all these challenges and limitations translated into the growing incapacity and inefficiency of most of the local governments in Argentina to adapt successfully to these processes. In other words, the goals of these processes and theoretical ideas were not fully achieved. In addition to this, the economic and political crisis of 2001 in Argentina

¹ Some of the literature that analyzes critically the process of decentralization in Latin America and Argentina in particular include Orlanski, 1998; Montecinos, 2005; Restrepo, 2001, Cao and Vaca, 2006; Borja, 2007; and Cravacuore, 2009.
encouraged some other redefinitions in both the public policy arena and in the respective roles of the different levels of the State in the development of the territory (Reese, 2006).

All of these transformations in the last 30 years have particularly affected the territorial development and the agenda of urban policies at different spatial scales and political levels in Argentina. As the literature emphasizes, local planning has adopted a relatively passive reaction to the most general territorial impacts, following a more traditional approach in the field (Reese, 2006). There is still a need to move toward a more innovative and proactive planning approach, which will allow new forms of intervention and strategies on managing urban issues. As Reese points out, it is important first to reconsider the relationship among government, territory and community in order to consider and implement more participatory frameworks (Reese, 2006).

While some places and administrations might have been comparatively innovative and venturesome, more frequently those particular ‘successful’ experiences or cases are highlighted and idealized, not just in academia but also in the professional world. This ‘best practices’ approach motivates the uncritical transfer and implementation of ideas and experiences to new places, and at the same time creates a partial image of those ‘successful’ instances. The City of Rafaela, Argentina has been cited nationally and internationally as a successful example of social, economic and institutional development, particularly in its handling of the 2001 crisis. This acclaim is due largely to the institutional density, a robust industrial sector, and an entrepreneurial local sector, as well as a leadership based on strong cooperative and collaborative practices, as the literature highlights (Costamagna, 2000; Ferraro et al. 2003). While these characteristics seem to be strengthening the local economy, not all the interests and actors in the community have had the same opportunities in the process. That is mostly because of the legacy of neoliberalism, which overemphasizes the private business sector. This
asymmetry usually becomes more evident when it comes to uses of and access to urban spaces and decisions around their use.

The mechanisms to increase citizen engagement and representation in the public arena, as part of the goal of political decentralization, have not yet been fully achieved in most places in Argentina. Although Rafaela has been developing innovative strategies in some other areas, it does not seem to be an exception in the case of improved participation. How is the process of political decision-making conducted? How is the relationship between governing and governed established and articulated within the political-institutional framework? In what ways and to what extent are different and sometimes conflicting interests brought together in the process of decision-making? In what ways and to what extent can citizens and different interest groups be represented in the process of decision-making in planning? In what ways and to what extent can the different levels of power of specific social actors and the national, provincial and local governments be balanced? What are the respective roles and the potential impacts of non-local actors in the political process? Which actors are not sufficiently included in the process? Who benefits from the decisions, in what ways and to what extent?

It is impossible to address all these questions in the scope of this research. However, this thesis aims to contribute in part to the discussion of those questions, specifically by analyzing the opportunities and challenges in accomplishing more collaborative decision-making processes regarding urban issues that affect different actors in the community, using the city of Rafaela (Argentina) as my case study. Particularly in the case of Rafaela, which is known as a cooperative and collaborative community, there is a lack of opportunities to address public urban issues in a more inclusive way. Thus, it is important to understand how the planning process is conducted
and how decisions around the uses of urban space are made, mainly when those projects involve conflicting interests.

This study engages the concepts and ideas from two theoretical frameworks. The first one, the *collaborative rationality perspective*, has had a significant influence in the planning field to increase mechanisms that will lead to more inclusive and consensus oriented planning decisions and practices. These ideas are significant alternatives to “traditional” planning. I aim to complement this collaborative planning theory with a second theoretical framework that also discusses more collective problem-solving, the *urban governance approach*. This perspective has been one of the most influential approaches to understanding and encouraging new modes of governing at the urban and local level that differ from the previous hierarchical control modes. Governance ideas are directly connected with the process of decentralization described above, in an application of the conceptual frameworks behind that process. Articulating those insights with the collaborative rationality perspective can bring a more comprehensive way of understanding how these contributions can be approached and implemented in the planning process, as I aim to do in my research.

A larger discussion regarding concepts and definitions will be part of the literature review but before going into the specifics of my research, it is necessary to clarify what I mean when I use two central concepts of my research: *collaborative rationality* and *urban governance*. Following the ideas of Innes and Booher (2010), *collaborative rationality* in planning implies that the affected interests engage in the process while bringing their diverse perspectives and ideas in order to achieve agreement and address a specific issue in a more representative way.

A broader definition of *urban governance* refers to the relationship between government and the governed in which they collectively set and achieve public policy goals. It puts the emphasis
on the process of decision-making but it also includes other aspects, such as civil society, institutions, informal as well as formal mechanisms, and the role of diverse actors. In sum, urban governance is about the wider range of processes, actors and mechanisms that are involved with formal government in the public decision-making process.

**Research Questions**

The questions, goals and objectives of the research are specific to each of the two main sections of the methodology, which are basically a literature review and a case study. A further description of the methodology is included later in this introduction.

**Research Questions for the Literature Review**

In what ways and to what extent can collaborative decision-making processes be articulated with urban governance?

- Which are the objectives and conditions of the urban governance model?
- In what ways and to what extent are urban governance ideas valuable to analyze processes of decision-making in planning? What are their limitations?
- Which factors help make consensus building more possible to achieve in addressing urban governance issues?
- Which political and institutional needs most strongly influence and condition the implementation of collaborative processes when it comes to addressing urban governance issues?
- What are the aspects of urban governance that can help cities and towns to better understand and enable collaborative processes in planning?
Research Questions for the Case Study

How is the process of decision-making conducted regarding urban issues in Rafaela City, Argentina?

- Which aspects of the process are formally introduced or enabled by the government?
- How are the needs, interests and local knowledge of the community incorporated into the process when addressing specific public issues?
- Which mechanisms help to bring different interests and actors more fully into the process of decision-making in planning issues?
- Which are the central actors and institutions involved in the process of decision-making related to urban issues? In which instances are they involved and with what degree of empowerment?
- How can processes of collaborative decision-making in planning be better integrated into governance modes?
- What are the main opportunities and challenges in achieving more collaborative decision-making processes in planning?

Research Objectives

Objectives of the Theoretical Discussion

- To determine the implications of urban governance and why it is important to introduce and enhance more collaborative and participatory governing processes in local and regional planning.
- To identify and describe the opportunities for achieving more collaborative decision-making processes regarding public urban governance issues.
• To recognize the challenges for local governments when involved in structures of governance with other stakeholders and citizens in order to address public urban issues.

• To determine the complementary aspects between collaborative planning and urban governance and how these ideas can be more effectively accomplished.

Objectives of the Case Study

• To evaluate the institutional and regulatory framework that regulates the governing process in planning and urban issues in Rafaela.

• To decipher the relationship among government, private sectors, and civil society and the mechanism by which they address public urban issues.

• To understand in what ways and to what extent the process of decision-making involves and empowers different actors and interests, by focusing on two specific urban projects proposed by the government.

• To integrate the findings from the case study with the theoretical and conceptual discussion to evaluate how theory can support and inform practice and vice versa.

• To provide recommendations that can help cities and towns implement initiatives to move toward a more collaborative decision-making processes in planning to enhance urban governance.

Scope of Work

Assumptions

This research does not assume that a collaborative decision-making is always the best approach in planning, as the literature in the field recognizes. The issue must be of significant and long-term social, economic and political importance (Innes; Booher, 2010). The ideas of collaborative
rationality that this thesis engages are only one part of a broader approach which is often called collaborative planning (Gregorio Hurtado, 2012).

Since planning should serve the public interests, the process often (but not always) requires some kind of civic engagement or participatory phase in which different interests can be represented in addressing urban issues. Moreover, urban decisions that affect every day people’s life need to be made involving the people who would be affected.

The planning field and regulations that support it differ in the case of Argentina. While several countries, such as the United States, mandate some participatory phases during the planning process, in Argentina that is not the case. However, as part of the goals of the process of decentralization, there is an assumption that conducting process of decision-making under a more decentralized governing structure will enhance democracy and civic engagement.

The ways in which issues of use and access to public urban space are addressed by cities in Argentina show that there is a lack of citizen engagement and local knowledge in the decision-making process. This situation increases inequality in the process, since the better-organized sectors can have some degree of influence. Particularly in cases that involve conflicts of interest, it is essential to develop more collaborative processes, which will result in more democratic and consensual public outcomes, and at the same time will improve social and political relationships in the community.

Collaborative processes in planning have to be articulated with formal governing structures to provide mechanisms that are more transparent and not selective in the inclusion of interests affected by planning decisions. These approaches might help to move toward a more innovative perspective and implementation of planning, which is decidedly needed, since the conflicts that
emerge from the difficult goal of balancing economic development, social justice and environmental protection are increasingly characteristic of the planning field.

**Limitations and Delimitations**

Two aspects have limited my research. The first one is related to the fact that most of the research and analysis has been done in another country (US) and only some in the case study location (Argentina). As I explain later in the methodology, there are different sources and means by which I will gather information and contact key actors in the process of urban decision-making. However, there is a lack of information and studies specifically and directly regarding these issues, and sometimes even public information is hard to access because of the bureaucracy of the institutions, made even more difficult by geographical distance. The second is connected with the first limitation and it refers to the timeframe of the master’s thesis, which has determined the amount and duration of in-depth interviews and the partial access to certain sources during the research.

The delimitations are related to the contributions of this research in addressing the use of and access to, urban space, as well as the opportunities and challenges for achieving more collaborative processes in planning. This research aims to articulate those ideas with local urban governance contributions from a planning perspective.

While several contributions on *urban governance* include the role and interactions of institutions and actors from different spatial levels (local, regional, state, national or supranational) as an important piece for understanding how power is distributed, the case study of this research focuses primarily on urban issues at the local level. However, this will be discussed to some extent in this research because the complexity that social and urban issues present today cannot be confined solely to the local scale.
Two specific and significant cases of urban renewal projects that already happened are taken into account when evaluating the process of decision-making in the city of Rafaela. The institutional framework is included as a key aspect to understand the regulatory conditions under which these mechanisms can be accomplished in order to enhance urban governance and collaborative practices.

**Contribution of the Research**

Some developed countries have been discussing the importance of achieving an integrated framework of *urban governance*. Most of the literature on the topic comes from the political science field, and involves a strong emphasis on institutional and structural analysis, as well as a discussion of devolving power to the urban municipality. Contributions on urban governance provide a more specific analysis of the aspects needed to achieve a more inclusive governing process. However, the impacts of the efforts to implement some of these ideas in the public process do not always seem to accomplish the objectives of governance, specifically in developing countries such as Argentina. This research aims to complement the ideas of urban governance with the contributions from collaborative rationality in order to provide a more holistic framework for addressing urban issues at the local level in a more representative and collaborative way.

Additionally, as mentioned before in this proposal, there has been an increase in literature discussing different models of urban governance and the role of the State, focusing specifically on developing countries. However, there is relatively little research on understanding how these ideas from urban governance can be approached and implemented to improve planning processes. This research puts an emphasis on analyzing the various public urban decision-making processes and the underlying forces that inform the agenda in city planning and policy.
This approach aims to add to the debate on how to enhance urban governance and encourage more inclusionary processes in planning.

Complementing the theoretical debate, the focus of this research aims to understand the opportunities and challenges of implementing these theoretical ideas in a specific case study. To that end, this thesis intends to provide some insights and recommendation for local governments and communities that face the challenge of adopting more participatory planning processes in the context of the devolution of state power.

Finally, in relation to my case study, analyzing and understanding these processes and the institutional context of planning is highly significant, since it will bring coherent information and clarity on how public decision processes on urban issues are conducted and how those relate to the political-institutional framework. Most of the research about Rafaela have been approached from an economic development perspective, and there is need for studies that analyze public decisions and debates around the urban space from a comprehensive planning perspective. These kinds of debates and contributions are essential for places that are moving toward new modes of governance and trying to adjust to their consequences and limitations in the process of decentralization. Moreover, this discussions are essential to promote the transition from a traditional conception of planning, as a discipline of land uses and urban codes, to a more innovative and comprehensive strategy of addressing urban issues with the participation of a broader array of stakeholders.

Although this thesis will focus on analyzing a specific case study in Argentina, the contributions and recommendations of this research intend to encourage citizens and officials (planners included) throughout Argentina and elsewhere to seek and implement more representative and inclusive processes in urban planning.
Methodology

The core of this research is to understand how decision-making over the uses of and access to urban space is organized, as well as the opportunities and challenges to move toward more collaborative decision-making processes, using the City of Rafaela, Argentina as the focus of my case study. To accomplish this, the research consists of three phases. The first phase is a theoretical discussion based on a critical literature review of the most relevant research contributions. The second phase involves the detailed empirical case study of two projects in the City of Rafaela. The third phase articulates how those theoretical ideas may help to inform and improve local planning practice, as well as how the practices analyzed and assessed in the case study can conversely inform and improve the theoretical framework.

The initial extensive literature review aims to articulate some of the most relevant theoretical contributions regarding collaborative rationality and urban governance. The literature review will consist of a critical exploration and analysis of those approaches, since the articulation of the theoretical debate through an empirical case study is one of the contributions of my research. As a conclusion of this initial discussion, I will identify the key aspects from the theory that will inform my case study.

The literature has been identified mostly by searching through Library Catalog and Academic Search Premier which includes on-line databases such as EBSCO using keywords and browsing. I have followed bibliographic trails (e.g. footnotes, endnotes, source lists, citation indices) to find and explore further the ideas that I find significant for my topic. I selected these secondary sources based on the relevance that they have for my research questions and objectives. The selection of my case study is based on two specific criteria. First, as mentioned in the introduction, the case of Rafaela has been extensively studied because of the ‘success’ of its
economic model, in part rooted in the strengthening of its industrial sector, the diverse institutional and civic ‘atmosphere’ and the ‘cooperative’ relationships. Additionally, in the last 10 years or so the city has been implementing significant and innovative initiatives to integrate civil society institutions, citizens and private sector actors within the process of local government. For instance, some of the programs include facilitating and developing public-private partnerships and the more current participatory budgeting by neighborhoods. As a result, the city has gained a reputation as a ‘successful and innovative’ model. However, in general the processes tend to favor those who can participate in networks or institutions, especially the business and industrial sector interests. There is still a lack of opportunities for opening the process of decision-making on public urban issues to different interests and actors across the whole spectrum of the community.

Second, considering that the case study is in another country (Argentina) and the research has been conducted mostly from the United States, it is important that I have means for gaining greater familiarity with the place. I have contacted people in the municipality and additional institutions that facilitated access to my sources.

The case study is composed of two main aspects that complement each other: the political-institutional framework and the process of decision-making of public urban issues. To approach and clearly understand the process of decision-making, I have selected two specific projects related to uses and renovations of urban spaces. The first one is the proposal for re-functionalizing part of the downtown and Main Street of the city. The second case is the renewal of the Old Bus Terminal of the city, which was an old market in the 1920s. The proposed use of that public property has been extensively controversial, since it started with a proposal presented by a private development firm who aimed to develop a shopping mall in a building with historical and cultural significance for the community. The selection of these processes
relies on the importance that both projects have for the whole community, since they involved significant public urban spaces. At the same time, both projects were related, since the building of the Old Bus terminal is part of the proposed redevelopment area of the downtown of the city. Each of the projects had different origins, although the local government supported both of them, included them in the political agenda, and presented them to the community. The analysis of these processes aims to help understanding how key decisions regarding urban space are made and what are the opportunities and challenges of implementing more collaborative processes in planning, mainly with regard to public uses and access of urban spaces.

The data and information for my case study are gathered through different sources using a mixed method, including government documents, interviews with key actors and other printed sources such as local and regional media. The access to most of the government documents is through the web page of the Municipality and the Municipal Council of Rafaela. Older documents and some studies are available at the public and municipal library of the city, which has most of the material in a printed version. The news from the local and regional media can be accessed on-line. Two of the local newspapers, *Diario La Opinión* and *Diario Castellanos*, have published annual reports, with highlighted facts from the city and the community.

Some statistical data are used for analytical purposes, specifically to provide the context of the case study. The National Bureau of Statistics and Census (INDEC in Spanish) has just released national statistics from the 2010 Census aggregated by individual towns and cities. Data were also gathered through local surveys by an agency (*Instituto de Capacitación y Estudios para el Desarrollo Local* –ICEDEL in Spanish), which today functions in the Municipality of Rafaela, to complement the national statistics.
Chapter Outline

The first chapter of this research presents the problem, the research questions, goals and objectives as well as the scope and the contribution of the study. The second chapter consists of the literature review and the theoretical conclusions that will inform the case study. The following chapter three explains the basic constitutional, legal and institutional framework for planning in Argentina, from the national level to the provincial and local levels. This helps to provide a context for the case study, which is presented in chapter four. This chapter includes an overview of the City of Rafaela and the analysis of the two projects selected, which will allow an understanding of how the decision-making processes regarding urban issues unfolds. The chapter ends with some conclusions summarizing stories of success and failure from the processes described in the case study, enlightened by the theory. Chapter five offers a discussion integrating theory with practice in addition to some comments regarding generalizable aspects. Finally, chapter six elaborates on the conclusions of the study, offering some recommendations and implications for planning.
CHAPTER 2
LITERATURE REVIEW

The literature review for this thesis research is based mainly on contributions from the theories of collaborative rationality and urban governance, which this research engages in terms of their potential interrelations. This section contains the most important aspects of those theoretical contributions.

Collaborative Planning: collaborative rationality and cross-institutional relations

In the planning profession, there is an extensive literature that discusses citizen engagement and collaborative practices. These ideas have been highly important in the transition from a more ‘traditional’ top-down, technocratic specialist conception of planning to a more innovative and comprehensive multi-stakeholder approach. This transition was initiated in the United States around the 1960s. The selection of this theoretical framework for my research relies on the way these various contributions have understood and considered the process of decision-making in planning.²

The contribution from Judith Innes and David Booher represents a significant effort in summarizing and articulating the basic aspects and conditions for a collaborative process in planning. In their work Planning with Complexity (2010), Innes and Booher provide a framework to understand how collaboration plays a role in complex systems, arguing that this approach can help finding different ways to make processes more effective. Their theory, both normative and descriptive, is based on insights from different frameworks and fields, particularly insights from

² There are many other contributions that fall under the heading of Collaborative Planning Framework. Sonia De Gregorio Hurtado (2012) in her doctoral dissertation presents a comprehensive analysis of the evolution of this approach. In her research, Gregorio Hurtado analyzes the contribution of urban policies and renewal programs in the European Union with a focus on their collaborative aspects.
the Frankfurt School of critical social theory on how collaborative dialogue can be rational; contributions from negotiation theory and conflict resolution; and from the fields of structuralism and complex adaptive systems (CAD). Additionally, Innes and Booher’s theory is informed by several research projects and practices that they have done on collaborative planning, which is one of the particularities of their work, as Gregorio Hurtado points out (2012: 95). Innes and Booher define a collaborative rational process as

[...] “all the affected interests jointly engaging in face to face dialogue, bringing their various perspectives to the table to deliberate on the problems they face together”. “(...) All participants must also be fully informed and able to express their views and be listened to, whether they are powerful or not” (Innes; Booher, 2010: 6).

Nevertheless, they recognize that this is the ‘ideal’ situation, suggesting that there may be different levels and modes of collaborations. In general, their model has to meet what they call three critical conditions (Innes; Booher, 2010: 35):

- diversity of interests among participants;
- interdependence of the participants; and
- authentic face-to-face dialogue.

They argue that this kind of process can produce significant outcomes, bringing “innovations that lead to an adaptive policy system in a context of complexity and uncertainty” (Innes; Booher, 2010: 36). To support this, the authors provide significant insights both in theory and in practice to unfold public decision processes at different scale (state, regional and local), and on different policy issues, types of participants, process design and dialogue management.

Innes and Booher refer to the limitations of government structures in addressing multiple goals and to rapidly changing urban and regional problems (Innes; Booher, 2010). They argue that this failure of hierarchical government structures explains in part the crisis of democracy that has
become evident in the last 30 years, at least in the US, in terms of the disengagement and apathy related to current practices of institutions and the distrust of officials and agency leaders (Innes; Booher, 2010: 197). Collaborative practices appear as an alternative to conventional expert-based planning, addressing complex and conflicting urban issues, leading to the achievement of a stronger consensus among different interests. Although most of the cases and experiences on which they have based their theory of collaborative governance emerged and were located outside of the traditional structures of government, as the authors explain, they are activities supported by governmental policies.

The work of Innes and Booher focuses more on the informal negotiations among actors who participate in the decisions, with a strong emphasis on the process of dialogue to achieve consensus (Gregorio Hurtado, 2012: 92). The idea of ‘consensus building’ aims to supplement if not to supplant the top-down approach with a more multidimensional mode of communication and action, as the authors try to demonstrate. Moreover, they emphasize the valuable learning experience gained throughout a collaborative process, which is independent from the results and outcomes.

The comprehensive articulation of these contributions on collaborative rationality is instrumental to the discussion of more inclusive and collaborative decisions, especially when it comes to complex and controversial problems that involve different actors and interests. One key point that Innes and Booher state clearly is that collaborative problem-solving is not a panacea and they do not think that it should always be the norm. However, these contributions provide some insights into facing and managing conflicts around public urban space issues and how effectively to build community from them.
Some of the critiques to this approach refer to the fact that actors who hold most of the power can use that advantage to alter processes. However, in later contributions the authors address those critiques using evidences from the field to show that this unequal relation of power can be managed in the dialogue in order to avoid such manipulation (Gregorio Hurtado, 2012: 101).

Another central contribution on Collaborative Planning comes from Patsy Healey. Innes and Booher include some of her ideas and conclusions in their work. As Gregorio Hurtado describes, Patsy Healey emphasizes the participation of all relevant actors in a specific planning process with the purpose of allowing a transformation of governance that can lead to a development of institutional capacity of places (Gregorio Hurtado, 2012: 53).

In her seminal work, *Collaborative Planning: Shaping Places in Fragmented Societies* (1997), Healey offers an approach based on ideas from different theoretical contributions. She articulates planning contributions that argue for collaborative practices and a policy-driven approach and contributions that come from the ‘new institutionalism’ approach, which allow her to focus on recognizing the social construction of meaning and the social embeddedness of thinking and acting. This articulation would allow for a more democratic or pluralistic mode of governance, and a more collaborative style of planning to help realize it. The author’s argument is based on normative and practical concerns. The first one relates to the need for more people-sensitive modes of governance, while the second is a concern about the management of local environmental change in situations of multiple and often conflictive stakeholders (Healey, 1997: 205).

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3 According to Sonia De Gregorio Hurtado, Healey is the main author with who the notion of Collaborative Planning is associated with. However, several authors and contributions have developed their ideas along similar lines of thought, building upon different theoretical and methodological planning perspectives (Gregorio Hurtado, 2012: 51-52).
The contribution from Healey seems to complement the ideas from Innes and Booher, presented earlier. While the former ones focus on the informal relations among actors, Healey focuses on the formal structures and the related networks. Understanding that public policy is constituted by several formal organizations and informal relationships through which collective action happens, Healey puts attention on analyzing how ‘soft infrastructure’, which consists of the design and implementation of planning practices, can change ‘hard infrastructure’, which includes regulations, rules and procedures set by systems (Gregorio Hurtado, 2012: 92).

As Healey affirms, the challenge is to find more inclusionary ways of collaboration and consensus-building that can open government to a more broadly-based effort in governance (Healey, 1997: 231). In trying to achieve this, she lays out three trends in governance forms that aim to enable a more continuous interaction between government, business and citizens. Nevertheless, they differ in the implementation and emphasis, i.e. more on the hard or on the soft infrastructure. The models are: criteria-driven approach; entrepreneurial consensus; and inclusionary argumentation (participatory approach) (Idem). In Table 1, I summarize the main ideas of each model based on Healey’s work (1997).
Although she thinks it is possible to identify some commonalities, she acknowledges that modes of governance are the product of local contingencies, the cultural traditions of places and political communities\(^4\), and the specific dynamics of change \textit{in situ} (Healey, 1997: 233). As a result, in her work she provides some parameters of systemic institutional design for participatory, democratic governance (Healey, 1997: 288). The range of attributes that this system should satisfy includes:

\(^4\) As Patsy Healey explains, “political communities in this context means those who, by prior law, or common consent or by organizational membership, find themselves part of a collective entity” (Healey, 1991: 206).
• the recognition of a range and variety of stakeholders and the inclusion of all members of political communities
• the acknowledgment that much of the work of governance occurs outside the formal agencies of government
• the organization of this system to spread power from government outside the agencies of the state but controlling the process so as to not create more unequal power
• the opening to opportunities for informal invention and for local initiatives; to enable and facilitate encouragement of diversity in routines and style of organizing
• the goal to be continually and openly accountable, making available the arguments, the information, and the considerations of stakeholders’ concerns that are behind decisions
• the requirement for critical review and challenge

Throughout this work, Healey (1997) further explains all these points. In addition, she points out that there is a vast literature in other fields that provides more contributions regarding public policy to help identify the basis for a systematic institutional design (Healey, 1997: 289). My research also aims to complement these ideas from collaborative planning with governance and more specifically urban governance contributions, as I will address at the end of this chapter.

Some of the critiques of Healey’s contribution are in line with the criticism that other works in this collaborative rationality framework have received, namely, lack of accomplishment relative to different levels of power, and no consideration of the actual or potential conflicts among various actors (Gregorio Hurtado, 2012: 90). Healey also addressed some of the critiques in later contributions, mainly redefining what she understands by consensus and clarifying that she never meant to consider a consensus that dismisses conflicts and downplays an unequal distribution of power (Gregorio Hurtado, 2012: 99-93)
Perspectives and practices related to collaborative planning have continued to increase and spread, not only in Europe but also in the United States and Canada in the last decades of 20th century (Gregorio Hurtado, 2012: 90). As the author summarizes, a collaborative planning approach applies communicative participation practices to urban planning processes (and related mechanisms), the goal of which is to change people’s local environment with the purpose of improving it (Gregorio Hurtado, 2012: 54). The fact that all the actors get together to share their opinions and understand each other establishes the basis to develop more collaborative public policies (Gregorio Hurtado, 2012: 55). This contributes to achieving more inclusive governance structures.

Gregorio Hurtado points out the strength of using the conflict that characterizes the decision-making process to provide opportunities for dialogues that can lead to a consensus and thereby to a definition of a common goal that will serve as a basis to work collaboratively. Working from a collaborative and an inclusive perspective also brings legitimacy to the process of decision-making, as Gregorio Hurtado (2012: 55) and other literature indicates. This author also emphasizes the potential that these collaborative practices have to create institutional capacity and increase the sense of shared identity that community members have relative to the place where they live. In the long term, these aspects can lead to mobilization of social capital of a community and to transformation of the modes of local governance (Gregorio Hurtado, 2012:56).

Finally, the collaborative perspective on urban planning brings together into the decision-making process the non-expert (albeit significant and relevant) knowledge of the community with the expert knowledge of professionals and officials. This allows the building of new integrated knowledge that will serve to promote solutions and decisions that adapt better to the problem or topic under consideration, as Healey explains in her work. In order for this process to
be effective, all the actors that are present throughout the process should be recognized and the values of inclusiveness and maintenance should be present throughout the process (Gregorio Hurtado, 2012: 94, based on Healey, 2003). Both the work from Healey and the work from Innes and Booher agree that personal and institutional relationships help to understand one another's perspectives and most of the time help to increase trust among members, leading to a development of effective social and institutional networks (Gregorio Hurtado, 2012: 96).

As I summarized in the next section, there are several contributions on urban governance that analyze how to achieve collective processes in defining public policies. Some of the aspects on which the key authors focus, such as power relationships, and institutional arrangements, can complement the ideas from the collaborative rationality approach discussed above.

**Governance theories**

The mainstream theory of governance comes from the field of political science, but it has been increasing its influence in other social sciences that are interested in the process of decision-making. Renate Mayntz was one of the seminal contributors in this theory and has been actively involved in its evolution. She explains that governance theory “began by being concerned with the steering actions of political authorities as they deliberately attempt to shape socio-economic structures and process” (Mayntz, 2003: 27). However, the theory has been shifting to different focus area, which ultimately affects the way that the term governance has been used. Mayntz states that the term is now often used to indicate a new mode of governing that is a more co-operative and collective approach to solve a problem, which differs from previous hierarchical control models (Mayntz, 2003: 27).

While in her article from 2003, “New challenges to governance theory”, Mayntz focus on the definition and evolution of the theory of governance, in the article “The State and civil society in
modern governance,” presented at a conference in Argentina, the author further describes processes and aspects that are involved in the modern conception of governance. In this mode of political power, government and non-government institutions, including public and private actors, participate and cooperate regularly in the formulation and implementation of public policies (Mayntz, 2001:1). One of the features that characterize this collaborative structure is the presence of networks, mostly when analyzing governance at the supranational level such as the European Union. She explains that there are different ways in which the State and civil society can cooperate, but most of the attention is focused on the interaction between public officials and corporate private actors in the definition of public policies. Another related form of cooperation is through mixed public-private networks, which has also been extensively explored in this field of research. However, as the author argues, there are some prerequisite conditions that the State needs to address in order to ensure that this self-regulation does not benefit just those private actors, but the interest of the whole society.

Following the explanation of what governance is, and what are the different modes of governance, Mayntz refers to the institutional and structural conditions that countries need to have in order to allow the development of modern governance. Among those aspects, she talks about the conditions that the State should have, including the distribution of power; the democratic legitimacy of public authorities; and a local polity that has relative financial autonomy, is diversified in its functions, and has specific competences. Complementing these characteristics, in order to enhance modern governance it is also essential to have a strong, diversified and well-organized civil society, which is also differentiated in sub-systems (Mayntz, 2001:3). Finally, and related to the quality of the civil society, it is necessary to promote a common identity that relates and links the different organizations and sub-systems. The author points out that achieving all these conditions is challenging and complicated, which means that
it is a hypothetical ‘ideal’ situation for fostering modern governance. Thus, there are different situations that approximate this ideal, and sometimes even the ways in which structures are developed, and the ways in which policy decision-making processes are conducted, do not necessarily achieve the level of what governance aims to be: seeking collective solution of problems and achieving a public welfare (Mayntz, 2001: 4). Finally, Mayntz recognizes that only if there is some coherence among the different interests involved will a more efficient solution of problems be possible, mainly at the urban level (Mayntz, 2001: 6).

Whereas this was a pioneer contribution on governance in general, there have been contributions that focus more specifically on urban governance, which provide some insights into how these ideas would work on the urban scale.

**Urban Governance Approaches**

Also coming from the political science field, Warren, Rosentraub and Weschler (1992) discuss the aspects that need to be included in an agenda to enhance urban governance and allow citizens to be involved in the process of decision-making. Some of the aspects that they include in that agenda are also related to the ideas that Mayntz indicated, such as the relative autonomy that the urban structures need to have; a form of democratic local self-governance composed of operational citizens; legitimizing opportunities for open and spontaneous forms of collective action; and incorporating a multi-sector polity. In their contribution they include an analysis of how this structure works and how it relates to different governance scales and levels; but instead of focusing more on the supranational level, as Mayntz does, they argue for building democratic and functional governing structures at the metropolitan and neighborhood levels. Similarly, the discussion of Warren et al. suggests broadening the way in which urban governance is analyzed, in order to include other factors such as the capacity of citizens to self-
organize and take direction action outside the formal structures of governance (Warren et al. 1992: 400). As these authors explain, in the governing process citizens and leaders are ideally instructed in their actions by a vision of what they would like the community to be (Warren et al. 1992).

A degree of relative autonomy at the local scale is one of the reasons for seeking a greater decentralization of processes and decisions at a more proximate level of the people most directly affected by them. In addition, the authors claim that there is a need for means to promote and decentralize opportunities for citizens to act collectively in affecting policy and community conditions outside the electoral process and representational politics (Warren et al. 1992: 408). Similarly to Mayntz and other authors, Warren et al. also refer to the structural and institutional needs for the enhancement of urban governance structure.

**Urban Governance Ideas in Latin America**

International institutions such as the United Nations and the World Bank have had a significant role in spreading the concepts of effective and inclusive governance to developing countries. As part of their missions, these international institutions are interesting in helping developing countries to address several issues related to urban poverty and development. Some of those topics fall into the ideas of urban governance, such as inequality, corruption and bad administration.

The United Nations Development Programme (UNDP) states that governance “comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences” (UN-HABITAT, 2004: 13). This institution and its approach promote the idea of ‘good governance’, which includes eight main characteristic principles: participatory; consensus oriented;
accountable; transparent; responsive; effective and efficient; equitable and inclusive; and follows the rule of law (UNESCAP, 2007). This is an ideal situation that is hard to achieve, but this framework that includes these aspects is necessary to move toward better governance structures.

Another more contemporary work on urban governance in line with the perspective of international cooperative institutions comes from Frederik Esko Lange (2009). He defines governance as “relationship between civil society and the state – the processes and structures arising from this relationship” (Esko Lange, 2009: 3). Based on the contribution of other researchers, this author argues that governance has four categories: technical; political; institutional; and cultural dimensions (Esko Lange, 2009: 15).

As part of his work, the author intends to show the connection between urban governance and city development. More interested in assessing and measuring urban governance, Esko Lange provides an extensive analysis of indicators, focusing specifically in two indices that illustrate those concepts. He addresses the significance of identifying some of the essential challenges that developing cities must address and some of the limitations that they face in developing and implementing efficient urban policies.

The importance of including these contributions relies on the diffusion of ideas, concepts and programs from international cooperation institutions to developing countries. More frequently, these new concepts, ideas and tools for measuring are imported or implemented without considering the specificities of each place and community. As a result, usually these efforts do not present very successful outcomes, or they do not help creating a basis for real change of structures and mechanisms. Because of that, this research aims to provide a critical analysis of
how theoretical contributions can inform practice in the case study I have selected and vice versa.

There have been some critical contributions on governance ideas in Latin America, such as the work of Clara Irazabal (2004, 2009) and Cristina Zurbriggen (2010). Clara Irazabal has done several comparative urban studies, focusing on areas in Latin America and the United States. She is interested in discussing how to achieve new modes of urban governance and planning initiatives that can be more emancipatory. Her article, “Models of Urban Governance and Planning in Latin America and the United States: Associationism, Regime Theory, and Communicative Action,” discusses the relevance and implications of different models of urban governance regarding those processes in the previously-mentioned countries. The author explores the convergence of two specific models that she considers to be at the center of urban planning and governance, Associative Networks Theory and Regime Theory.5

Irazabal argues that the complementarities of those models can bring a powerful synergy and status through Communicative Action (Irazabal, 2004), theory that overlaps with collaborative rationality presented above in that both derive from the work of Jurgen Habermas. Thus, she pointed some directions to complement and articulate these models on urban governance theory with planning contributions. In that connection, she identifies at least four fundamental issues that need to be addressed: power; knowledge; space; and subjectivity (Irazabal, 2004: 9).

Another complementary contribution from the same author, Revisiting Urban Planning in Latin America and the Caribbean (Irazabal, 2009), provides an extensive review of the planning field in

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5 There is an extensive debate about Regime Theory, particularly in political science, where most of the ideas of governance have emerged. This is one of the most influential models used to approach urban governance. As Graham, Phillips and Maslove summarize, this theory “seeks to identify how and under what conditions often competing interests join together to achieve public policy goals” (Graham et al. 1998:26).
that context. In this broad analysis, the author extensively explores those aspects related to regulatory frameworks, practices, initiatives and tools in planning that demonstrate the result of the process of decentralization. The relevance of this research derives from the few key contributions that exist with a comparative analysis of the urban planning field, and particularly the lack of studies that focus on the development of that field in Latin America. In that context, she provides a strong analysis on the evolution, conditions, trends and challenges of the field, identifying some key aspects that need to be considered in order to move toward more integrated urban governance structures.

Cristina Zurbriggen (2010) proposes a critical analysis of the agenda for the restructuring of the State based on the spreading and implementation of the ideas of governance in Latin America. The author considers that the ideas and models originated and implemented in Europe differ from the models that have been encouraged in Latin American countries. She also pointed out the active role that international institutions (such as the World Bank, the United Nations and the Inter-Development Bank) have had to spread these ideas and models to developing countries.

In this critical review, Zurbriggen argues that the dominant governance ideas and models encouraged and implemented in Latin America have put greater focus on the market. She uses the cases of the infrastructure (water and sewer) and welfare policies to demonstrate the privatization that public services have experienced in most Latin American countries.

She provides a significant effort to articulate how ideas related to governance were implemented, how they affected the role of the State, and how those changes impacted other social aspects. She concludes with some suggestions to rethink governance in Latin America, mostly from the public administration perspective. That reconsideration should include the conditions of governance, governability, and the ones related to revenue and economic capacity.
of territories. Although it is challenging to address those structural and historical issues, it is critical to consider those aspects when thinking and discussing how more inclusive, democratic and representative processes can be accomplished.

The challenge and value of articulating the basic concepts of urban governance relies on the necessity of accomplishing a more specific framework to understand the opportunities and challenges for achieving more collaborative processes in planning and issues around public urban space. While urban governance contributions provide significant insights to focus on the institutional arrangements and other conditions required for new modes of governance, especially in Latin American countries, collaborative rationality ideas help to focus on how to conduct processes from a collaborative perspective and how to move toward a more innovative and inclusive planning approach. There are several aspects that help connect these approaches.

The next section below summarizes some of the potential complementarity aspects between the two approaches covered in the literature review, as well as some of the main factors that will inform the following case study of this research.

**Summary and Potential Interconnections**

As one of the goals of this research, the theoretical analysis aims to provide some insights about potential complementarities between the approaches presented above. Both groups of contributions have been developed in the context of a crisis of democracy and the need for encouraging more pluralistic modes of governance that can help addressing issues related with public common good from a collaborative perspective. The main difference between them rests in the fact that collaborative rationality contributions focus on thinking how to adapt general ideas from social theory to the planning practice, while the ideas from urban governance are
more concerned with political and institutional adaptations to more decentralized decision-making processes.

Healey’s contributions attempt to go further in contemplating how collaborative practices can have an impact on governance, comparing to Innes and Booher’s work that mostly focuses on analyzing and understanding how collaborative processes unfold. However, all these contributions coming from the planning field pay less attention to the general constitutional, political and institutional framework that regulates and enables the decision-making process. On the other hand, urban governance approaches provide a broader analysis in relation to those aspects but offering very general ideas regarding how more collaborative process can be implemented. Moreover, urban governance approaches do not offer any insight regarding where planning properly fits within the governing process.

Consequently, the major potential integration lies on how the insights from the professional and practitioner-planning field can be integrated into the political and institutional sphere. This leads to another question: ‘What is planning as a public function? Where does it fit in the governing process?’ While is not the goal of this thesis to fully address these questions, it is necessary to provide some general ideas that can help clarifying the role that planning can have in achieving more collaborative decision-making processes.

As the literature analyzes, the disciplinary field and profession of planning have gone through different approaches that have shaped its role and definition (Fainstein; Campbell, 2012; Healey, 2012). This research engages with the idea of planning as the discipline that mediates processes that involve diverse interests and interactions among stakeholders and the community in order to improve the environment where people live. The challenge of the profession, especially for those working on the public sector, is how to balance economic, environmental, and social
needs and goals (Campbell, 1996). With processes in which conflicts are usually present, planning has the potential for enhancing equity when addressing urban issues and defining policies.

The collaborative rationality approach incorporates the use of conflict as an opportunity for dialogue to achieve consensus or find a common goal among stakeholders in planning. Those ideas include some of the factors that will inform the case study of this research. For that participatory process to happen and be successful, there are some conditions that must be achieved, based on the contributions summarized above. With regard to the design of collaborative decision-making processes over contentious issues, the following aspects are considered some of the basic conditions. The first condition is the identification of stakeholders and affected interests in order to have more inclusionary processes. Second is the clear provision of full information about the issue or topic under discussion; adaptation of the information depending on the recipient group; and use of proper channels of communication. The third aspect that might be present if the issue requires it is a conflict assessment, in order to summarize the different conflicts, needs and concerns that stakeholders have. This assessment will prepare the ground for dialogue and negotiation. In relation to this, the fourth feature that should be part of the process is the role of a facilitator or mediator, someone who is neutral and helps to manage conflicts and the unequal distribution of power. The fifth point refers to the dialogue and negotiation strictly, which shall seek: interdependence of participants; diversity of interests in face-to-face dialogue; disclosure of information; finding a common ground; building new knowledge based on integration of expert and non-expert knowledge; and consensus-

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6 The literature and debate regarding consensus-building and negotiation go beyond the scope of this research. However, because this thesis focuses on discussing how to most effectively implement more collaborative processes and enhance governance structures, it is important to address some of the basic conditions that may be required.
building. After this phase comes the implementation of decisions. Finally, the last step is a critical review and evaluation of processes and outcomes; it is important for future experiences, to determine the strengths and limitations of the process and outcome.

The strength of these contributions lies in thinking of the process of decision-making in a more collaborative way from the perspective of planning. But this should be integrated within the general political and institutional framework, where the ideas from urban governance may potentially serve to complement the existing planning approach.

The first condition to ensure a decentralized governance modes is the recognition and exercise of real local autonomy in the context of democratic forms of government. That also includes the democratic legitimacy of officials, a local polity that is diverse and has specific competences, and operational citizens. In addition to these institutional features, urban governance rests on the presence of means to promote and decentralize opportunities for citizens to participate in the policy-related decision-making processes, aside from the limited electoral process.

Additionally, there are some conditions related to civil society that affect the development and enhancement of urban governance, which include: strong and well-organized civil society organizations; the capacity of citizens to self-organize and take actions outside formal governmental institutions; and the presence of networks. Most attention to this subject is paid to public-private partnership, with the goal of greater integration of governmental and non-governmental institutions. However, this does not include mechanisms to increase civil society role in the decision-making process.

In that sense, planning becomes the potential area in which these goals can be accomplished with regard to issues related to the urban environment and the community interacting in that place. That accomplishment can be possible if planning is seen as a profession and field that can
mediate conflicts and that can help increase citizen participation and community engagement in the governing process. In that sense, it is necessary to eradicate the view and practice of planning as a technical and administrative profession. Collaborative decision-making in planning, as I am analyzing in this research, is only one mechanism that can help achieve these goals of decentralization and collective decision-making. One of the strength of this profession, particularly in the public sector, lies in its capacity to manage situations of conflict among different stakeholders but also leading interactive processes with the community. Ultimately, these collaborative processes can increase transparency in processes of decision-making, build community, and address social equity issues in policies and management strategies regarding urban space.

It is important to recall that the contributions reviewed in this chapter recognize that what they present are situations or models in principle that are more difficult to achieve in practice, but they suggest that situations can approximate that ideal. Finally, both frameworks recognize the importance of adapting processes to the cultural, social and political conditions of the community.
CHAPTER 3

CONSTITUTIONAL, LEGAL AND REGULATORY FRAMEWORK FOR PLANNING IN ARGENTINA

Argentina historically experienced a very early process of urbanization in Latin American and the Caribbean; it currently contains a significant percentage of population living in urban areas and has one of the highest rates of urbanization in Latin America and in the world in general.\(^7\) However, despite that long-term trend, the debate over planning and territorial ordering has not been a central topic in the political and governmental agenda at any level for much of that history. This limitation is also related to the fact that planning in Argentina only consolidated as a profession around 1950, and since then it has gone through a process to redefine its role (Reese, 2006). Overall, in most of the country the dominant perspective regards planning as a traditional field that focuses only or mainly on land uses and technical decisions regarding the built environment.

As a result of this cultural context, there is limited literature available regarding urban and regional planning in Argentina, particularly when it comes to legislation and regulation related to planning. The lack of such literature has been a limitation in this research. Another difficulty is related to the territorial and regulatory diversity and heterogeneity that the country presents across its 23 different provinces, plus the Autonomous City of Buenos Aires (CABA in Spanish) (Figure 1).

\(^7\) As a report from the CEPAL confirms, Argentina is one of the countries that presents the most advanced rate of urbanization, with more than 80% of the population living in urban areas in 2000 (CEPAL, 2001: 27). According to the national statistics in 2011, the total urban population, defined as the population that lives in urban areas with 2,000 inhabitants and more, was 89.3%. Projections from the National Institute of Statistics and Census (INDEC in Spanish) and CEPAL estimate that this number will reach 94% in 2015 (MINIPLAN 2011: 26).
Figure 1: Map of Argentina with the 23 provinces and the Autonomous City of Buenos Aires

Acknowledging these limitations, this chapter summarizes and articulates the most important constitutional, legal, and regulatory aspects that have an impact on the planning process, looking at the different governmental levels (national, provincial and local). Analyzing these constitutional and legal bases of political and administrative institution in Argentina is essential to understanding the aspects of the governing process, which at the same time are enabling or
limiting the opportunities to encourage more decentralized and collaborative urban governance modes. Moreover, this analysis is crucial to articulate the ideas from collaborative rationality in planning and urban governance, as discussed in the previous chapter.

The first part of this chapter has a brief explanation about the government system in Argentina, focusing later in the departments that have a more direct influence on planning. The second section presents the constitutional aspects of planning, including the role of police power, private property, eminent domain and citizen participation. The third part summarizes land use regulation and some important ongoing processes to increase this kind of legislations, focusing specially at the national level. A brief analysis of environmental regulations is included in the Appendix section of this research, to complement the regulations that have an impact on planning.

**The Federal Government System in Argentina**

Argentina has a representative democracy and a federal governmental system, as Section 1 of the National Constitution of Argentina states. The federal form is based on a separation between federal government and local governments, ceding to the provinces the power not delegated to the Federal Government (National Constitution, Section 121).

The National Constitution is the supreme law of the Nation, which means that all the other legislation must follow it (National Constitution, Section 31). It was first enacted in 1853 and amended several times; the current version was amended in 1994.

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8 Although the Constitution states the type of government system, Argentina has had six military coups that interrupted democracy during the 20th century. The last one started on March of 1976 and established a permanent dictatorship until October 1983, when democracy was restored.
The national government has three branches: Executive, Legislative and Judicial, also called the ‘Three Powers’ (Figure 2). In general words, the Legislative Branch enacts the law, the Executive applies it to and enforces it in specific cases; and the Judicial Branch is in charge of reviewing, interpreting, and verifying that the law and its application do not disrupt constitutional guarantees (Abella, 2010: 10).

The Legislative Branch, National Congress, is composed of two chambers: the Senate and the House of Deputies (Representatives), with 257 voting members. The Senate is composed of 72 Senators, three for each of the 23 provinces and 3 for the Autonomous City of Buenos Aires.

The Judicial Branch belongs to the Supreme Court of Argentina, which has nine judges who are designated by the President of Argentina with the agreement of the Senate. The tribunal is the final arbiter. The Council of the Magistracy manages this Branch and is in charge of the selection, through a binding process, of court magistrates for lower federal tribunals. Each province has its own judicial structure to administer and carry out ‘ordinary justice’ (minor offense or misdemeanor) as the National Constitution states (Sections 5, 121 and 123).

The different laws that the legislative branch enables regarding civil matters are compiled in the Civil Code, which was approved in 1869 by Law N 340. The formulation of this legislation was influenced by several sources, including: Civil Code of Chile (Code of Bello); Code Napoleon and its commentators; the Spanish legislation in effect until that time in Argentina; the Roman Law; the Canonical Law; the work of the Brazilian judge Freitas; and diverse codes that were influential at that time.⁹

Each provincial government as well as the CABA is a representative republic, and the Federal Government shall guarantee them the full exercise of its institutions. Each of the provinces has the same government system with the three branches as described above. Provinces and the CABA shall enact their own constitutions and organize their local governments but always following and respecting the National Constitution and National laws, ensuring its administration of justice, municipal regime, and elementary education (National Constitution, Sections 5 and 123).

The autonomy of local governments was one of the most important points added in the last amendment of the National Constitution (1994). This institutional change was also part of the important process of decentralization encouraged since the 1980’s. This has very important implications for urban governance, especially in urban planning, since it aims to bring greater autonomy to the local scale where urban issues and policy need to be addressed in a more direct and urgent way. However, every province presents a different situation since provincial constitutions were enacted or last amended in different periods. Some of the regulations at the
provincial level, more specifically in fifteen provinces, are out of date because they were enacted before the last amendment of the National Constitution in 1994.\textsuperscript{10}

**Government Administrative Departments regarding Planning**

There are different governmental departments at the national public administration that are involved in or have an impact on the planning process (Figure 3). Depending on the Executive Power at the national level there is a Secretary of Environmental and Sustainable Development which has different offices that have some impact on planning, including the following undersecretaries: Environmental Control and Pollution Preservation; Coordination of Environmental Policies; Planning and Environmental Policies; and Promotion of Sustainable Development. This Secretary used to be part of the Ministry of Health, but it was transferred to the sphere of the Chief of the Ministerial Cabinet in 2006.\textsuperscript{11} The objectives of this Secretary are diverse, but all concern the protection of the environment and the territorial organization. It is also in charge of articulating and controlling the offices and organizations in charge of applying environmental policies (see Appendix A for the most important environmental regulations in Argentina).

In 1990, the Federal Council of the Environment, integrated by the 23 provincial governments and the government of the CABA, the Department of Environment and Sustainable

\textsuperscript{10} Iturburu (1999) identifies four main historical periods in which the provincial constitutions were enacted or last amended. Period I, before the democratic period (1902-1983); Period II from the recovering of the democracy until the legal case Rivademar v. Municipality of Rosario (1983-1989); Period III, from 1989 until the last amendment of the National Constitution (1994); and Period IV, since 1994, last amendment of the Constitution (Iturburu, 1999: 52).

Development from the National government was created to allow the elaboration of the environmental policy.

The other area of the national public administration that set policies regarding planning is the *Ministry of Planning, Investments and Public Services*. This ministry was created in 2003 as part of a reorganization of the national government of some ministries and their departments and secretaries. Under this ministry, the *Secretary (Department) of Public Works* is the one that concentrates the Undersecretary of Urban Development and Housing, along with two other undersecretaries: Water/Hydrology Resources and Public Work.

One important branch that is also part of this Ministry is the *Undersecretary of Territorial Planning of Public Investment*. This branch was created with the purpose of formulating and implementing a strategic territorial development policy. This policy has the main goal of developing a more spatially integrated and balanced nation, with a strong environmental and ecological identity and an organization that enforces economic and social development. It has two offices: National Office of Strategic Territorial Planning and National Office of International Territorial Integration.

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Figure 3: Governmental departments related to planning at the national level

Source: Author’s elaboration based on institutional charts from National Public Administration and from the Ministry of Planning

Author’s Note: Ministries listed here are composed by more Secretaries than the ones included in the chart. The ministries, departments and secretaries included are the most relevant and directly related with planning
Until 2008 the Ministry of Planning, Investments and Public Services had the National Commission of Social Land under the Secretary of Public Works. However, in 2008 this commission was transferred to the sphere of the Chief of Cabinet of Ministries, under the name of National Commission of Land for Social Habitat ‘Priest Carlos Mujica’ (*Comisión Nacional de Tierras para el Hábitat Social “Padre Carlos Mujica”*).¹⁵

The work of this commission goes along with the National Government’s goals of increasing social justice and inclusivity; building a more territorially balanced country; and reducing regional spatial asymmetries. With access to land and a good-quality house as their main working principles, the Commission of Land for Social Habitat works closely with the National Office for Basic Infrastructure and Community equipment; Office of Promotion for the Social Production of Habitat; and the National Office of Land.

Finally, the *Undersecretary of Urban Development and Housing*, at the Secretary of Public Works, has historically been in charge of determining political guidelines of the national urban system. As part of its role, it currently has several National Programs focused on housing and social infrastructure which are then implemented by the Institutes of Housing at the provincial level (Reese, 2006: 7).¹⁶

¹⁶ Some of the housing programs that Reese (2006) mentioned are: FONAVI (Fondo Nacional de la Vivienda); MEJOR VIVIR Programa Federal de Construcción de Vivienda; Programa Federal de Emergencia Habitacional; Programa Federal de Solidaridad Habitacional; PROMEBA Programa de Mejoramiento de Barrios; Programa de Mejoramiento Habitacional y de Infraestructura Básica;Programa Rosario Habitat, among others (Reese, 2006: 20). Most of the housing programs from this secretary focus on reaching low income, working class and vulnerable population. However, the National government has a new program (PRO.CRE.AR. Programa de Crédito Argentino) that aims to help medium income family getting a loan to access a lot and build their first house.

As I mentioned at the beginning of this paper, the last amendment of the National Constitution was in 1994 and included significant innovations in the legal framework of Argentina, including the recognition of: international agreements on human rights, new rights and guarantees, and the autonomy of local governments, among other aspects (Fidyka, 2007: 4). I address some of these incorporations in this section of the chapter.

As the judicial literature emphasizes (Arvallo, 2005; Abella, 2010), none of the rights that are part of the National Constitution are exercised in absolute terms. They need to be restricted in order to preserve the social harmony and to satisfy the public interest, order and safety. Legislation is intended to regulate these rights.

‘Police power’ reflects the extension of the power/legal authority of the State to establish limits to private property rights, always with the purpose of satisfying a goal related to public good. This idea appeared in 1827 under John Marshall, Chief Justice of the Supreme Court of the United States.

In the law case Ercolano v. Lanteri de Renshaw (1922), the Supreme Court of Argentina claimed the need to regulate or limit the exercise of individuals’ rights in order to make them compatible with the rights of other members in a community and with the superior interests of it. In this case, the court declares the unconstitutionality of the Law N 11.157 established by the Executive, which intended to ‘freeze’ the prices of the rent in order to regulate the need of

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17 ‘Freeze (something)’: Spanish expression that means to suspend an activity for a period.
housing after the decrease in development during World War I\textsuperscript{18}. The court’s decision cited other U.S. law cases, particularly the case of \textit{Munn v. Illinois}, to ascribe the general definition of ‘police power’.

Sections 14, 19 and 28 of the National Constitution of Argentina work as a framework for limiting and regulating practices of the State. These sections ultimately claim that the State should have good basis for the actions that tend to regulate individual’s rights.

“All the inhabitants of the Nation are entitled to the following rights, in accordance with the laws that regulate their exercise, namely: to work and perform any lawful industry; to navigate and trade; to petition the authorities; to enter, remain in, travel through, and leave the Argentine territory; to publish their ideas through the press without previous censorship; to make use and dispose of their property; to associate for useful purposes; to profess freely their religion; to teach and to learn.” (National Constitution, Section 14).

“The private actions of men which in no way offend public order or morality, nor injure a third party, are only reserved to God and are exempted from the authority of judges. No inhabitant of the Nation shall be obliged to perform what the law does not demand nor deprived of what it does not prohibit.” (National Constitution of Argentina, Section 19)

“The principles, guarantees and rights recognized in the preceding sections shall not be modified by the laws that regulate their enforcement” (National Constitution of Argentina, Section 28)

As the literature points out, unlimited rights would ascribe to a conception that goes against the social order. In consequence, the limitation of rights allows the coexistence of everybody’s rights and make them compatible with other’s rights (Arvallo, 2005; Abella, 2010; De Maio, 2010).

The CABA has its own Constitution, enacted in 1996 after the last amendment of the National Constitution recognized the autonomy of the city.\textsuperscript{19} This legislation of the City of Buenos Aires emphasizes some aspects related to planning, such as the creation of a Strategic Planning Council as an advisory body that it is leading by the Government Chief and integrated by

\textsuperscript{18} Case Ercolano v. Lanteri de Renshaw: http://falloscsn.blogspot.com/2005/08/ercolano-c-lanteri-de-renshaw-1922.html

\textsuperscript{19} Constitución de la Ciudad Autónoma de Buenos Aires (CABA)
different social institutions and community organizations. In addition to that, Section 29 enacts that the city shall define a participatory Environmental Urban Plan that will function as a framework for other regulations of urban development and public work (Resse, 2006: 8).

However, the current regulations of planning have not been updated.

In Argentina, the attitude toward property is clearly and tangibly illustrated in the constitutional safeguards, similar to the United States (Cullingworth; Caves; 2009: 18). Section 17 of the National Constitution of Argentina states that property shall not be violated and none of the inhabitants of this nation can be deprived of it except by virtue of a sentence based on law. As this section of the Constitution also affirms, expropriation for public interest must be authorize by law and previously compensated. The legislation that regulates expropriation in Argentina is Law N 21.499, sanctioned in 1977 by the National Executive of Argentina.

As far as the social need demands it, the government has the right to determine the use that owners can have over their properties (power of eminent domain), always seeking and supporting public goals. As Abella says, an unlimited private property right would be tyrannical with individuals and anarchic with the society (Abella, 2010: 7).

As Abella explains in her work, different regulations put some limits to private property based on public interest goals. It is a responsibility of the Nation or the Provinces to establish those limitations depending on the location of the good and the ends behind those regulations, always following the national regulation of the property, which is in the Civil Code (Abella, 2010:8).

There are different ends for the restrictions that seek public interest (such as safety, morality,

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20 In Argentinean legislations the expression ‘expropriation’ is more common when talking about eminent domain.

health, etc.); among those restrictions are those related to land use and conditions that developments need to fulfill.

The Supreme Court, based on Sections 104 and 105 of the National Constitution of Argentina \(^2\), resolved that provinces can definitely enact their police regulations over urbanism and planning, although those regulations cannot violate or limit the rights and guarantees that are in Section 14 of the Constitution, previously cited. \(^3\)

When it comes to housing, Section 14bis of the Constitution of Argentina expresses that the State shall grant access to decent housing among other things:

“the State shall grant the benefits of social security, which shall be of an integral nature and may not be waived. In particular, laws shall establish: compulsory social ... insurance, which shall be in charge of national or provincial entities with financial and economic autonomy, administered by the interested parties with State participation, with no overlapping of contributions; adjustable retirements and pensions; full family protection; protection of homestead; family allowances and access to a worthy housing” (National Constitution of Argentina, Section 14 bis).

The inclusion of this aspect in the last amendment of the National Constitution is also part of the incorporation and recognition of international agreements into the supreme legislation, most of them related to international human rights accords.

In relation to public and citizen participation, the last amendment of 1994 incorporated in its Section 36 and 43 new rights and guarantees regarding this topic. In addition to that, and through the recognition of international human rights agreements, the Constitution determines citizens’ right not only to vote for their representatives but also to participate in public affairs

\(^2\) Those sections of the National Constitution say that Provinces establish their own institutions and are regulated by them, which means that they have a power that cannot be passed to the Federal Government.

direct and indirectly (Gordillo, 1998). In the case of provinces, this aspect is different depending on the provincial constitutions. It is important to recall that this aspect represents a limitation in updating regulations and policies, since most of Provincial Constitutions were enacted or amended before the current version of the National Constitution.

In the case of the CABA, Reese (2006: 20) explains that its constitution addresses citizen participation from the beginning as a very innovative aspect. The Constitution of the City, in its Section 63, establishes a mechanism of ‘public hearing’ (Audiencia Pública), which is compulsory before legislative discussion of regulations and projects related to building regulations, urban planning, and the modification of public spaces and goods. In addition, there are different stages and mechanisms in the planning process that allow participation, including the discussion or reformulation of the Urban Planning Code of the city.

**Land Use Regulations**

As part of the effort to change the reactive approach that land use regulations and planning have had in Argentina, there is a project to pass a national legislation regarding land use. In 2008 and as part of the Ministry of Planning (MINIPLAN), the President of Argentina created the Federal Council of Planning and Territorial organization (COFEPLAN in Spanish), in which the different provinces are represented, with the purpose of implementing a National Policy of Development and Territorial Ordering of the Nation (Decree N 420, National Executive). After the First Assembly of the COFEPLAN, the Legislative Commission (led by the Province of Mendoza)\(^\text{24}\) was created to develop a National General Law of Territorial Organization. In July 2009, the first draft of the Law was created with the aim of setting a regulatory framework to

\(^{24}\) The Province of Mendoza was a pioneer in formulating and approving a holistic regulation regarding land uses and territorial ordering at the province level. Later in this sections there is more information regarding this legislation.
guide policies of territorial ordering in Argentina. In September 2010, it was presented for analysis and discussion to the Executive Chamber and the executives of the different provinces.25

The first part of the draft of the law starts with an explanation of what territorial ordering means, defining it as a public policy that aims to direct the social production of the space. After that, it sets the principles on which territorial ordering is based, defines the objectives of the law, and sets some guidelines regarding territorial policy. The second part of the draft contains rights and responsibilities of inhabitants of the country regarding territorial ordering. The third part has the institutional information regarding territorial ordering. The fourth and last part defines mechanisms of the territorial policy, which need to be regulated by each individual province.

Some of the key aspects that this law project contains regarding planning include:

- general principles of the territorial ordering in the whole country include: equity in the territorial development; sustainability; balancing the development of the environment, the economy and the society; territorial inclusiveness; sustainable human development, productivity and food security and sovereignty; land as a natural resource; respect for the identity and cultures; and urban areas as collective construction;
- defining planning and regulating the planning process;
- establishing rights and responsibilities over land uses;

• enforcing the development of Strategic Territorial Plans in urban areas that have more than 20,000 inhabitants, which is a responsibility of provincial and local administrations, based on their specific governmental organization;

• including different stakeholders in the process of formulating, modifying and evaluating the plans;

• reinforcing the eminent domain and other kind of mechanisms to implement the territorial policy, such as development fees for improvements, expropriations, “Land Bank”, among others.

This law project has been highly controversial, raising different debates around eminent domain. However, it is important to mention that the draft was formulated as a General Law, enabling legislation that will not have any specific application, since it respects the autonomy of the provinces (National Constitution, Section 123). That means that the provinces and the Autonomous City of Buenos Aires, if they are interested, need to enact their own legislations that establish the instruments, mechanisms and ways to implement these regulations (Corti, 2010).

As part of the argumentation and precedents, the project of the law cites the most important current regulations of natural resources. These are important regulations that show a systemic view of resources and the environment, but the draft of the law project only emphasizes that there is a lack of regulations of the activities that affect urban areas.

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At the provincial level, there is also a lack of attention and regulations of land use and zoning. The Province of Buenos Aires was the first one to legislate urban development. The Decree-Law N 8.912 of the Province of Buenos Aires, approved in October 1977, regulates at the province level the territorial ordering and land use, occupation, subdivision and equipment of land.\textsuperscript{27} This legislation does not intend to regulate individuals’ action, but works as guidelines that regulate the actions of municipalities in the Province of Buenos Aires (Reese, 2006: 7). However, since this regulation was created more than 30 years ago, it has a very limited perspective regarding land use and the organization of the space. Due to the fact that it is an out-of-date regulation, it does not consider the current situation and issues that are involved in the processes that affect land use, zoning and urban transformations in general (Reese, 2006; Corti, 2008)

More currently, in 2009, the Province of Mendoza sanctioned the Provincial Law N 8.051\textsuperscript{28}, which was a precedent for the national law project has been evaluated. The law aims to improve the quality of life of inhabitants of the Province, encouraging a more sustainable and balanced development of the territory, not only in the urban areas but also in the rural parts too. The Ministry of Environment and Public Works is the department in charge of implementing this regulation and the Municipal (local) governments in the province are responsible for enacting ordinances to regulate land use and territorial ordering in their jurisdictions (Reese, 2006: 9).

Some of the aspects emphasized in this legislation are the detailed explanations about the administrative aspects, the responsibilities of the different jurisdictions, the mechanisms for environmental evaluation and some components regarding public participation in the decision-making processes (Corti, 2009). Among the limitations of the law Corti (2009) mentions are the

\textsuperscript{27} Decree-Law N 8912/77, Province of Buenos Aires: http://www.gob.gba.gov.ar/legislacion/legislacion/l-8912.html
\textsuperscript{28} Law N 8051/09, Province of Mendoza: http://www.tribunet.com.ar/tribunet/ley/8051.htm
limited attention put on mechanisms to capture the social profits generated by new
development and infrastructure, and social access to land, housing and urban services, which is
known as the ‘right to the City’.

In the rest of the provinces, legislations are not articulated or they still use the National
Regulations of Measurements from 1957 to legislate over the fractions of land, as Reese (2006)
explains. Some jurisdictions have incorporated environmental regulations that do not include
specific sections related to urban management (Corti, 2008). However, as Corti mentions, more
recently regulations over gated communities and private neighborhoods have proliferated as a
reaction to the increase of this kind of development.

In the CABA, Law N 71 from 1998 regulates the development of the Environmental Urban Plan
and expands the urban regulations that are in the Constitution of the City, mentioned in the
previous section. However, the plan created between 1997 and 2000 was questioned by
different kind of institutions, which forced the Legislative Authority of the City to reevaluate it in
2004, and has not been approved since then. Law N 449 by Corti (2008) from 2000 regulates the Urban
Planning Code, a regulation that was created for the first time in 1977 and updated several
times later (Reese, 2006: 8). In 2006, this legislation was amended in Law 2.216, which
incorporates new criteria regarding the localization of industries in the city.  

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29 Law N 71, Autonomous City of Buenos Aires
http://www.buenosaires.gob.ar/areas/med_ambiente/pua/ley71.php
30 News regarding Environmental Urban Plan of the City of Buenos Aires:
http://www.buenosaires.gob.ar/areas/planeamiento_obras/copua/plan_urbano_ambiental.php
31 Legislations in effect regarding Urban Planning Code, CABA:
32 Law N 22.16, CABA:
At the same time, mechanisms and regulations regarding Environmental Impact Analysis have increasing relevance regarding decisions over the urban space. The CABA has the Law N 123/98, which sets conditions and procedures to determine the environmental impact of public works and activities and their feasibility.

The constitutional, institutional and political aspects included in this chapter allow an understanding some of the opportunities to enhance modes of governances. These new opportunities promise to increase collaborative decision-making processes in topics related to the urban agenda in Argentina, such as the recognition of local autonomy and the necessity of increased citizen participation. Moreover, some of the legislations and projects listed here show a heightened awareness of land use regulations and management of urban areas.

At the same time, this analysis put in evidence some of the limitations related to the out-of-date regulations, especially at the provincial level, that do not facilitate achieving the goals of the decentralization of decisions. Most of the provinces in Argentina have not updated their legislations to follow through with the benefits that some of the national regulations present.

Understanding this institutional basis is essential to analyze the role of planning and localized decision-making about urban space, as I present in the following chapter concerning the case study of this research.
CHAPTER 4

CASE STUDY: URBAN DECISION-MAKING IN THE CITY OF RAFAELA, ARGENTINA

This chapter presents a case study to analyze the opportunities and challenges in implementing collaborative decision-making processes in planning in the City of Rafaela, in Santa Fe Province. The first part provides an overview of the provincial regulatory context, including some background on legislation that affects government structuring and planning regulations at the local level. The second part analyzes the regulatory and institutional conditions at the local level in the context of the City of Rafaela, clarifying the role of planning and the decision-making processes over urban issues. That serves as a basis for the case study of the third part of the chapter. This section summarizes two contentious projects, ‘Downtown Revitalization’ and ‘Future use of the Old Bus Terminal Building’, selected to understand the way that decisions regarding public urban space are made in the City of Rafaela. The fourth and last section of the chapter has some concluding remarks from the case studies, highlighting the successful and unsuccessful aspects from the cases in order to identifying opportunities and limitations in implementing more collaborative decision-making processes in the context of the City of Rafaela.

Overview of the provincial regulatory framework

The supreme legislation at the provincial level is the Constitution of Santa Fe Province enacted in 1962, which has not been updated since its establishment. As Iturburu (1999: 56) mentions, this province represents an interesting case because of two aspects. First, it was a pioneer in recognizing municipal autonomy in the amendment of the Constitution in 1921. Second, the

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National Supreme Court of Argentina declared municipal autonomy in 1989 through a court case in which one side was a municipality from this province (Rivademar v. Municipality of Rosario).

The provincial Organic Law for Municipalities N 2.756, from 1985, regulates the functioning of municipal (local) governments in Santa Fe. This legislation states the type of local administration that cities and towns have based on the total population. Those urban areas with more than 10,000 inhabitants have a municipality, and they are independent in performing the functions that they have. The law also establishes that municipalities shall elaborate their specific urban records and regulating plan, which will have the guideline of the organization and future development of the city. However, it does not give any other guidance or explanation regarding this point.

As regards governmental structures, the law determines that municipalities are composed of a Municipal Council (CM in Spanish) as a legislative body, and a municipal Mayor in charge of the Municipal Executive Department (DEM in Spanish). All members of the CM and the mayor are elected directly by the citizens. The Municipal Council meets in ‘ordinary sessions’ from March to December of every year, and they shall establish the months in which they will have sessions. During break, they can call to ‘extraordinary sessions’ if half of members and one more agreed, specifying the topics that motivated that decision. As this legislation states in Section 37, all CM’s sessions are public, unless the majority of the members agree that need to be closed to the public because of the nature of the topics discussed.

Section 39 of this legislation also describes the responsibilities and aspects of this local legislative body, specifying responsibilities regarding specific areas, such as tax collection, public works, safety, transit, social order, sports, and administration. As one can see, there is no

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specific reference to urban planning, which in part explained by the fact that this regulation is from the late 1980s when the process of decentralization was starting and the profession of planning was still being defined in Argentina. In relation to the expropriation of goods based on public interests, Section 39 establishes that this local body shall request from the provincial legislation the related authorization which demonstrates a limitation over local autonomy.

Later in this section of the chapter, I summarize the case of Rafaela City including a more extended analysis of institutional regulations that have an impact on planning at the local level. But first, I include other regulations that are effective at the Provincial level and which are also related to urban planning aspects (Appendix A summarizes environmental regulations at the provincial level).

Another important legislation that affects all municipalities and towns in Santa Fe Province and it is more directly related to planning is the Minimum Regulations on Urban Ordering, approved by Provincial Decree 7.317 in 1967. This Decree establishes the general guidelines to consider for the organized and harmonious development of urban areas in the province. All the municipalities and town governments that do not have mechanisms of urban regulation will apply this general provincial regulation.  

More recently, the provincial government, through the Secretary of the Environment, approved Resolution N 151, which describes the conditions for urban lot subdivision. This resolution defines ‘lots for urbanization purposes’ as all lots or subdivision land projects to be used as residential areas or related uses, and those that imply opening new streets.

Section 1 of this regulation requires that the potential project needs to go through an Environmental Classification and Evaluation, based on the aspects established in Decree 101. Based on the results from that process the project must follow specific requirements or steps in order to be approved. For instance, if the project falls into Category II (Middle Environmental Impact), it needs to elaborate a study of Environmental Analysis. Resolution N 151/12 also requires towns and municipalities that are planning to do some urbanization changes in land use to present detailed information regarding the project in order to be evaluated. At the end of this regulation (Appendix III), there are some guidelines to local governments about minimum requirements for Urban Projects, including several legislations that need to be considered in the process. Finally, among the requirements the provincial government establishes that the person or firms in charge of the subdivision are responsible for installing the minimum services such as public lighting and a low-tension residential electricity system; potable water system; leveling out and digging up streets; and public tree planting. After finishing with all these public works, lots will be finally approved.37

This regulation motivated the suspension or delay of several projects in urban areas in provinces that have been experiencing a fast process of urbanization. In the case of Rafaela, this is a very current and an ongoing process of negotiation between the local and provincial governments to find an agreement regarding the process to approve the division of new lots for urbanization purposes.

Planning in the context of the City of Rafaela

The City of Rafaela, with a population of 92,945 in 2010 (INDEC National Census, 2010), is the third-largest city in Santa Fe Province (Figure 4). Its population has shown a constant growth for the last thirty years, with percentages above 20%, which is higher that the provincial and national growth rates. Although the population is still growing, the rate has decreased somehow in the last decennial census, showing an increase of 11.23% (INDEC, National Census, 2010).

The city, which is composed of 38 neighborhoods and the downtown area, presents a very typical urban grid of this region with the main Plaza in the middle surrounded by the most important institutions, i.e. the municipality, commercial institutions, churches and historical buildings. Four main boulevards connect the main ‘Plaza 25 de Mayo’ with the routes that go to other towns and cities in the region (Figure 5).  

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38 This pattern of development is a result of the private process of colonization that happened in the second half of the 19th century, led by the company of Guillermo Lehmann who arranged the settlement of immigrants, mostly Italians, Spanish, and Swiss-German population. Since its formation, it has become an important area in the region, attracting populations from other places to work in the agricultural sector during the colonial times. Later newcomers found the industrial sector to be an opportunity to establish new lives in this dynamic urban area.
Although the city presents a significant density, there are few towers closer to the downtown and historical part of the city. Instead, as the aerial view shows, these towers dominate medium and low-high constructions in other neighborhoods (Figure 6). Figure 7 illustrates the contrast between the surrounding area of the city, mostly land use for agriculture and farms, and the high-density development inside the limits of the urban boundary.
Figure 6: Aerial views of the city of Rafaela, Argentina


Figure 7: Another aerial view of the city with agricultural areas surrounding the urban landscape

Source: Photo by Martin Dario Herrera (http://www.panoramio.com/photo/1173865) (retrieved June 2013)

Based on its population, the City of Rafaela is considered a Municipality with the respecting institutional structure that the Organic Law for Municipalities described above establishes. It has
a Municipal Council (CM in Spanish), currently composed of nine members, and a Municipal Mayor, who is in charge of the Executive Municipal Department (DEM in Spanish).

Figure 8: Current local government structure and main departments related to planning

Source: Author’s elaboration based on Rafaela.gov.ar

The CM is in charge of enacting local legislation (Ordinances), which the DEM will then apply to the city. As part of its function, the CM has five internal commissions that address different topics; one of them is responsible for discussing issues related to planning, the ‘Commission of Public Works, Planning, Housing, Public Services and Environment’. The DEM can enact Decrees and Resolutions that fall under its responsibilities and rights but they are reviewed by the CM.

40 The other four commissions are: Government; Social and Economic Development, Public Health, Education and Culture; Property and Treasure; and Budget.
Figure 8 summarizes the local government structure and the departments related to planning. Under the Chief of Cabinet, there is a Department of Urban Development, Land and Housing (SDUSyV), which until the end of 2011 was part of the Department of Public Works (SOP). The latest department is concerned mainly with public works and infrastructure but it is also in charge of energy programs. The Department of Government and Citizenship (SGyC) with the Undersecretary of Participation and Management (SGyP) are the areas of the government that concentrate most of the initiatives that articulate the government and the civil society. The SGyP was created in 2008 with the goal of enforcing citizen engagement and some participatory activities. Additionally, this secretary manages the Advisory Social Council (CCS in Spanish), which was created in 2001 in the context of the economic crisis. Later in this section I will develop further some of the main responsibilities, initiatives and programs that these different areas of the government have in relation to planning to some extent. Two other departments complete the picture of the general scope of planning goals: Department of Services, Public Space and Environment; and the Department of Development, Innovation and International Relations. The latter agency concentrates on activities and responsibilities related to economic development.

In terms of regulations that affect planning at the local level there are few to mention; they need to follow the provincial and national legislations previously mentioned in this study. In 2008, the City approved the Urban Code of Rafaela (Municipal Ordinance N 4.170) following what the Law for Municipalities N 2.756 establishes in its Section 3.\footnote{Municipal Ordinance N 4.170: http://www.digesto.conceraf.com.ar/opciones/Ordenanzas-ver.aspx?i=1716&fd=3/12/1993&fh=2/1/2010&cat=0&nro=4170&txt=}
This legislation included and reconsidered some of the precedent municipal legislations that exist. Among them the most important are:

- Ordinance N 1.453 (1960) Urban projects and subdivision regulation
- Ordinance N 2.588 Regulates technical and administrative aspects of urbanizations
- Ordinance N 3.212 (1999) Regulates the uses on temporary flooding areas of the city
- Ordinances N 3.751 and 3.873 Regarding urban parameters for tall buildings
- Decree Ordinance N 2.827 (1967) ‘Plan Director’
- Decree Ordinance N 2.958 (1967) Zoning Regulation
- Decree N 4.566 Building Regulation

Most of these legislations were out-of-date considering the current urban situation, which was one of the motivators to elaborate the Urban Code. As a result, most of the above-mentioned regulations were repealed and some amended since they have some contradicting point to the Urban Code approved in Ordinance N 4.170 (including Ordinances 3.751 and 3.873; Decree Ordinances 2.827 and 2.958).

At the same time, other regulations were added:

- Ordinance N 3.151 Regulates Fences and Sidewalks

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43 The Ordinance defines ‘Housing of Social Interest’ as individual or group of residential units for families whose socio-economic situation does not allow them to have access to housing, and as a result need assistance from the State in order to do that (Ordinance 4.284, Section 3). At the same time, it defines ‘Urbanizations of Social Interest’ as urban developments that aim to solve housing issues, normalize illegal settlements and/or create affordable lots with basic public infrastructure for those families that do not have the possibility to have access to housing, and as a result need the assistance from the State in order to do that (Ordinance 4.284, Section 4).
- Some other ordinances that incorporated some aspects of the Urban Code, including Ordinance N 3.512, 3.845 and 4.315; Decree N 30.216; and Resolution N 922/09 and 941/10

This Code\textsuperscript{44}, as it states, intends to move from a zoning approach, which is just based on land use, toward a more integrated approach that evaluates the complexity and impact of economic activities in the city and the urban infrastructure affecting the environment. The Ordinance regulations include important aspects regarding planning and the related processes:

- the need to increase social equity and justice
- the importance of regulating land markets in order to achieve a more just urban development, which can allow bringing opportunities for different social groups and can help create a more democratic city
- the necessity to develop and implement mechanisms to manage the growth of the city, reducing the contradictions that emerge from those process, such as excessive sprawl, marginalization, the deterioration of inner city, and the proliferation of abandoned areas, among others
- the selection and control of where urbanization happens, preserving land and the soil, water, air, health, landscape and the well-being of citizens
- the use of the Urban Code not just as a normative, finalized tool, but as one that is constantly being updated and reconsidered in relation to current urban spaces

The Urban Code is the most significant regulation that guides urban development in the city; it was elaborated by different representatives from professional institutions and government officials and is intended to be updated every year, but it has not included citizen participation at

\footnote{\textsuperscript{44} Urban Code of the City of Rafaela: http://www.rafaela.gov.ar/nuevo/Seccion.aspx?s=106}
any point in the process so far. One of the reasons that might explain that omission is that the code is only a traditional tool, with a narrow perspective on the development of the city, focusing on the technical aspects of the built environment, land uses and the activities that take place inside the urban boundaries. As a result, there is clear need to complement this regulation with other kinds of initiatives that can allow broadening the perspective on urban issues and gathering needs, concerns and ideas from the community as part of the process.

It is important to recognize that this regulation implies a greater effort in terms of the legislations and tools that are available in the city regarding urban planning, particularly considering the ones that were implemented until the approval of this regulation in 2008. It is a useful tool, but it does not stand-alone when it comes to regulating the planning process and how decisions over urban space are made. As a representative of the local government recognized, even though it is not the ideal regulation and process, the Code serves as a basis from where to keep working.45

During the planning process, no public hearing or public participatory stage is required. The only instances that are open to the public are the sessions of the CM, where members discuss and present the legislations that are going to be approved. Although they are open to the public, the public present cannot interact in the discussion. If the topics that are being analyzed during the internal sessions of the CM’s commissions require it, representatives of institutions or professionals can be called to participate in the discussion. Otherwise, these sessions of the commissions are not open to the public, but the media can be present to report the discussion.

The municipal government also has different Advisory Commissions to interact with institutions and to make the governing process more open. The commissions that are directly related to

45 Interview with a representative of the local government, March 2013
planning include: ‘Preservation and Defense of Heritage of the City’ and the Advisory Commission of the SDUSyV. The main objective of the first one is to develop a program of historical, cultural, urban-architectural, and environmental preservation. It is integrated by representatives of the DEM, the CM and intermediate organizations invited especially to achieve this purpose.

The second commission was created to control urban development, and is also currently in charge of updating the Urban Code. It is mainly composed of technical specialists including: two representatives of the DEM; one representative of the Association of Architects; one representative of the Professional Association of Engineers; a representative of the Association of Civil Engineers; a representative of the Associations of Technicians and Quantity Surveyors; and a local representative from the Association of Surveyors of Santa Fe (Municipal Ordinance N 3950).46

Another aspect related to citizen participation is the implementation of initiatives in the City of Rafaela as part of the work of the SGyP. Since 2008, this area of the government has been implementing the Participatory Citizens Budgeting Program, approved by Municipal Ordinance N 4227, Section 8. The goal of this program is to work collaboratively with citizens to decide the use and implementation of part of the public budget, giving the opportunity for the community to share their public infrastructure priorities. This tool has become an important process in which citizens can engage and get involved in decisions in their neighborhoods, even if it implies just discussing small investments of a budget that the local government has assigned to spend in each neighborhood. The Municipality of Rafaela has implemented it for three consecutive years, and most of the decisions that neighbors agree on are related with improvements on the urban

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space and public works. After these three instances, there were some limitations on the public budget available, in addition to the constraints to complete the projects approved in previous years on time. As a result, in 2012 the SGyP modified and updated this tool creating what is called ‘Thematic Participatory Budgeting’, which divided the Participatory Budgeting in two different areas: the Social, Cultural and Environment Budget, and the Budget for Infrastructure and Public Works. The second one maintains similar characteristics with the previous budgeting programs, while the first one has added other social, recreational and leisure activities by neighborhood to enhance community life. In doing so, the SGyP works very closely with the Department of Cultural Activities.

The Advisory Social Council (CCS), another agency that is part of the SGyP, was created during the economic crisis of 2001. In its origins, its main objective was to manage and implement the social welfare programs decentralized by the national government. When this responsibility ended, the CCS became a space where different institutions of the city can meet to engage in dialogue, and share different perspectives on diverse current topics and issues related to the community.²⁷ It functions as a mediator between the government and the community, seeking to increase citizen participation and developing or enhancing networks. The CCS faces the challenge of adjusting for different needs according to the social context; official representatives stressed this adaptive quality in interviews. This institutional agency had a central role in one of the projects that is part of the case study of this research, as I will explain in the following section.

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²⁷ Some of the organizations that are part of the council include governmental institutions and public officials; private-public partnership; educational institutions; civil and non-governmental institutions.
It is important to point out that these mechanisms of citizen and community engagement are not integrated or related with the SDUSyV, where the decisions still are made primarily by professionals or public officials with limited community interactions. However, regulations and legislations at the provincial and local levels do not mandate or regulate the incorporation of citizens in the process. Provincial legislations are out-of-date and do not represent a significant contribution regarding this issue; local governments are tasked with determining their own approaches.

As representatives from the government expressed, there have been greater local efforts to communicate and work with other departments, but achieving this interaction inside the government is still a challenge when trying to implement governance goals. The legacy of a hierarchical governing process and structure framework to understand that limitation.

As part of the efforts to increase openness in departments and governmental areas, the SDUSyV created in 2012 the ‘Urban Planning and Assessment Workshop’ (Municipal Decree N 35.679), which was has intense involvement from the Advisory Commission of this department. This aims to be an institutional space where officials from different departments and representatives from institutions such as the Real Estate Association, Association of Architects, Association of Engineers, and others, can meet to discuss the urban issues and initiatives that are in line with the core concepts of the mayor’s agenda. At the same time, as an official emphasized in an interview, it provides a space in which they can share the determination of decisions, express different perspectives, and find new ideas or potential initiatives to implement in the city.

The next section of this chapter presents an analysis of the two conflictive projects selected for the case study assessment, which aims to show how the processes of decision-making regarding urban public space unfold in the City of Rafaela. This will help to identify the opportunities and
challenges to implementing a more collaborative approach when it comes to complex and controversial cases about urban space.

**Two Contentious Projects: Downtown Revitalization and Future Use of the Old Bus Terminal Building**

As explained in the introduction, the selection of the two project processes and the collaborative governance issues they exemplify was based on the fact that both affected key public urban areas of the city and involved mediations of different interests in the community. Both processes are also connected to each other in other important ways, as most of the actors interviewed recognize. As the map in Figure 9 illustrates, the Old Bus Terminal building (yellow rectangle on the map) is located in the downtown area (pink shaded rectangle). Starting at the main Plaza (‘25 de Mayo’) (green square in the map), Santa Fe Boulevard is the Main Street of the city (red line in the figure), which was historically the commercial district where most of the businesses and financial institutions are located. The two other arteries that go west (Mitre Avenue, diagonal north line; and Santa Fe Avenue, straight line) were also part of the Downtown Revitalization project.
Figure 9: Area delimited to renew as part of the Downtown Revitalization project; location of the Old Bus Terminal Building (yellow square)

Source: Google earth

Reviewing how the respective processes unfolded will allow the identification of opportunities and challenges to implementing more collaborative processes when it comes to controversial and complex planning issues in the City of Rafaela.

**Downtown Revitalization**

**Context and Emergence of the Issue**

The idea of revitalizing the downtown of the City of Rafaela did not emerge from any controversy or dispute in particular, as opposed to the second project that I analyze in this chapter. Instead, it started around 2006, when representatives from the Chamber of Commerce (CCIRR in Spanish) expressed to the municipal government their intention to renew the downtown area of the city.
The target area covered not only Main Street, but also an extended area where commercial activity dominates (Figure 9). This area presented the challenge of having mixed-uses\textsuperscript{48} and being very atypical in terms of the properties and uses: around 70% of businesses rent the properties where they have their commercial activity. These property owners were not represented, nor were the residential stores either (OE, 2008: 7).

The CCIRR, which represents most of the local businesses located in the downtown area, had specific motivations for improving this area. The goal of the commercial sector was to revitalize the image of the area in order to promote business and recreational opportunities, making it more functional and pedestrian friendly.\textsuperscript{49} This need became more evident when other commercial areas started to consolidate in the city, while the historic downtown (on Main Street) has kept the same basic characteristics and layout for more than 50 years (Figure 10).

\textsuperscript{48} Looking more specifically at the map of land uses in the urban morphology, the extended downtown area presents: mostly central commercial and administrative activity; ‘low-density residential’ with some commercial and primary services; medium and some high-density ‘mixed area’, including residential and basic commercial and activities related to the tertiary sector. Finally, in the main avenues going west (Santa Fe Av. and Mitre Av.) it predominates ‘mixed-use high density surface’, which consists of some light industries and low and medium commercial and tertiary activities. In addition to these uses, there is a ‘Natural Reservoir Area’ represents by the main plaza and some other open and green spaces (Urban Code of Rafaela Section 5: 13-14).

\textsuperscript{49} At the same time, this institution has been working in a program with the Argentinian Confederation of Medium Enterprise (CAME in Spanish) to implement a strategy known as ‘Outdoor Commercial Center’ (‘Centro Comercial a Cielo Abierto’), which is being promoted in different cities in Argentina (OE, 2013).
Figure 10: Same view of Main Street (Santa Fe Boulevard) around the 1940s (top picture) and currently (bottom picture)

Source: toscanohotel.com.ar/Rafaela/empresa (from Municipal Historical Archive)


The municipal government supported this initiative of the CCIRR, since they agreed with the importance of improving this historical part of the city. As a result of several meetings, the government signed a ‘Cooperative Agreement’\(^{50}\) with CCIRR and the Association of Architects to

\(^{50}\) Decree N 24807, DEM, signed in January 2006 ratifies the ‘Cooperative Agreement’ between the Municipality of Rafaela, CCIRR and the Association of Architects.
organize a competition of ideas. As the responsible of the Department of Public Works and Urban Planning (SOPyPU in Spanish) at the time explained, they knew that several architecture students were using the case of Rafaela and some of its historical buildings for their thesis projects. Given the situation, they wanted to use those assets, and garner interest of other professionals, and begin to prepare some project proposals for the area.

The goal of the competition was to give downtown a new image and to improve the commercial activities and services offered in the area, in order to promote Rafaela as a regional center in the Province of Santa Fe. The organizers required the participants to include in their proposals not only ideas to improve the conditions and aesthetic of the area (specifically related to public services and infrastructure) but also to incorporate some alternatives for future uses of the Old Bus Terminal, an historical heritage building. At that point, the new bus terminal was still under construction but the government and the community knew that the old building would be vacant shortly and would need an intervention, as a representative from the local government affirms.

The selected project in the competition of ideas was a proposal presented by a local architecture firm. However, as a representative from the CCIRR stated, the limitation of this competition was that participants did not have clear restrictions or conditions from which to adapt the project. Consequently, great ideas came out for the renewal of downtown but most of them were unfeasible, since for instance the proposed urban furniture (e.g., benches, trash

51 Usually the local government organizes this kind of competitions to gather ideas and projects, providing opportunities to get involved and participate. However, in most of the cases they represent opportunities for professionals who have the skills to fulfill the requirements, like in the case of this competition and the one for the Old Bus Terminal, which I analyze later.

52 Interview with the representative at that time of DOP (March 20, 2013).

53 The project selected for first place was from the architectural firm ‘Mauro Long and Associated’, which received a prize of AR$20,000. This firm was the same hired by the government to implement the ideas once the MC approved the corresponding ordinance.
cans, tree bases, etc.) were excessively expensive; other changes proposed would demand a significant investment to be divided between the government and property owners in the area.

There was a consensus among all different sectors involved about the necessity of downtown revitalization, but the specifics of the original project are some of the differences that would later lead to a conflict among the various parties, since they had a direct impact on the budget of the project.

Decree N 30287 from the DEM (February, 2009) ratified the agreement among the local government, the CCIRR and the Association of Architects to develop the professional work for implementing the project of Downtown Revitalization. This regulation also authorizes the SOPyPU to prepare a budget with the cost of the project that would be used to negotiate with the other affected sectors (such as property owners). However, the negotiation over the financial aspects of the project and the responsibilities that different sectors would have on that arrangement is when the dispute and disagreement among stakeholders started.

**Stakeholders’ negotiation**

The discussion with stakeholders was very long and complex. The main actors involved were the local government, both the legislative (MC) and the executive (with some technical departments); the CCIRR also participated in representation of property owners at the beginning. Later in the negotiation, specifically when the budget of the improvements was communicated, some property owners and neighbors who live in the affected area self-convened to participate directly in the negotiation and reconciliation process and no longer through the CCIRR.
The process took more than 4 years, and there were several institutional changes during that time, not only in the CCIRR but also in the government.\textsuperscript{54} Since the beginning of the process, the CCIRR, an institution that comprises most of the businesses in the city, had a closed relationship with the government, as part of the cooperative agreement which started this process. They represent local businesses, but for the purpose of this project, property owners signed an act authorizing the institution to be the mediator with the government and lead the negotiation representing them.\textsuperscript{55} However, during the process of negotiation a group of ‘Frentistas’, property owners with street-front building (some of them with businesses in that property), self-convened because they did not agree with the idea of the CCIRR being responsible for closing the cost negotiation; after all property owners (and not businesses) would be in charge of paying. As a result, this group known as ‘self-organized street-front property owners’ (‘Frentistas Auto-convocados’ in Spanish) decided to get involved directly in the negotiation of the project, although the government showed some resistance to negotiate directly with citizens, as the private sector and the CCIRR expressed in interviews.

As representatives from the government (legislative and executive) indicated in interviews, they undertook a huge effort to reconcile all the parts and to convince businesses and property owners (mainly ‘Frentistas’) to support the project. In this process, there were several meetings, some of them called by the Mayor with some representatives from technical departments, and

\textsuperscript{54} From the government side, the executive office and part of the cabinet and departments changed when Mayor Omar Perotti left office in December 2011. Perotti was in office for three non-consecutive terms: December 1991 to 1995; December 2003 to 2007; and December 2007 to 2011. Luis Castellano, who was on the legislative side as a member of the Municipal Council, took office in 2011. Both belong to the same political party, ‘Partido Justicialista’ (Rafaela.gov.ar).
\textsuperscript{55} Although I was not able to access the act, this was confirmed in the interviews with representatives from different parties, CCIR, property owners and government officials.
others by the CM. This legislative body had a significant leadership in the negotiation, trying to reach a consensus with the other sectors on how to divide the costs of the project.

There were several diverse opinions from both the public and the private sector on who should be responsible for the costs of specific parts of the renovation. It is important to point out that the total costs payable by the property owners was reduced significantly (almost 30%) over the course of the negotiation. Aside from that, the majority of the private sector still did not agree on the aspects that were included as part of their responsibilities. The points of discrepancy until the end of the negotiation were mainly around the financing of the cobblestone paving and flower beddings, distinctive characteristics of the boulevards in the city (Figure 11).

Figure 11: View of the flower bedding and cobbling paving on main street, Santa Fe Boulevard

![Source: www.radiosanpatricio.com.ar (retrieved June 2013)](image)

Part of the private sector’s argument was that those landscape features were public and in the case of the cobbling paving, there is a specific municipal tax that all citizens pay to maintain it since it is considered a historical heritage of the city. Property owners agreed to pay for the complete renovation of sidewalks, in order to achieve the goal of homogenizing the pattern of
sidewalks and giving the downtown a more coherent image, as the project of Downtown Revitalization aimed. However, they argued about the budget that the government had for sidewalks. As officials and representatives from the CCIRR explained, the work included not only the renovation of the sidewalk surface, but also the repair of the subsurface with the goal of installing underground wiring and infrastructure. As a result of such significant work, the budget for sidewalks was bigger than the repair of the surface, as property owner understood. Nonetheless, this explanation about the scope of the work to justify the government’s budget was not communicated properly to property owners, based on the comments of most of the representatives interviewed from the public and private sector.

Results

In one of the last meetings led by the DEM, the different parties had seemed to reach an agreement on how to divide the costs of the project between the different sectors involved, especially what the private sector should pay for. But, as a representative from CCIRR and from the private sector affirmed, that division of the percentages was made based on estimates, while the real costs of the projects were still unknown at that point of the negotiation. Moreover, as representatives from the CCIRR and the private sector explained, the way that they calculated the costs that went into those percentages was very confusing. Likewise, the method to determine how much each property owner should pay was not clear enough for the neighbors, since the government used a complex formula that was hard to understand. This led the private sector to distrust the numbers of the budget, thinking the government was charging more money than the project actually cost, as interviewees from the private sector and the CCIRR affirmed.

56 Interviews with representatives from the private sector (March, 2013)
This decision was formalized in the Municipal Ordinance by the legislative enacted on March 2011, which stated that 70.93% of the total cost would be borne by the municipal government and the remaining 29.07% by the property owners. Although not all the legislators supported the re-negotiation of the percentages, the majority of the Municipal Council voted affirmatively. It is important to mention that Ordinances from this legislative body did not include the real cost or value of the project. Usually, in this kind of projects, the final cost is later ratified by the DEM and the technical departments in charge after the CM enacts the ordinance that allowed the project.

After the sanction of the ordinance, the local government sent 208 bills to the neighbors with the budget settlements (‘boletas proforma’), which was the final cost that the neighbors would be responsible for paying if they supported the project. The final proposal stated that it would take twenty-four months to complete the project, which was also the time that property owners would have to pay the total costs, by using the terms of ‘contributions for improvements’, in which the government would secure the up-front investment but then recovers the money from property owners. The financial terms would also give neighbors the opportunity to pay it in several dues payments.

After this, as part of all processes of public work that contains ‘contributions for improvements’, the government opened a ‘Registry of Opposition’ for 10 days. The Registry of Opposition reached the 40% threshold required to bar approval, so the project was rejected and failed. It

57 Municipal Ordinance N 4.437, CM, March 2011.
58 ‘Contribution for improvements’ is a municipal revenue based on the principle of benefit. It consists on sharing or divides the costs of a public work between property owners with front of building (‘Frentistas’) with direct beneficiaries (Peirone, 2002; Del Rey, 1999).
59 That ‘Registry of Opposition’ was opened for 213 property registers (‘catastros’) in the affected area, passing the threshold of 86 signatures needed in order to reject the project (La Opinion, Julio 2011).
is important to mention that as far as all the interviewers know, it was the first time that a project for improvements in the city failed because of the ‘Registry of Opposition’, which means the cumulative opposition of neighbors.

Although the original Downtown Revitalization project failed, when the current mayor took office, the government decided to start implementing some of the improvements that the project had proposed. In doing that, they began with some aspects that were under their responsibility, such as repair of cobblestones, and improving crosswalks to prioritize pedestrian and other beautification features (i.e. urban furniture) (Figure 12). The government believes that starting in phases will help to improve the relationships with property owners, who might decide at some point to take actions to add their contribution to the revitalization of the area.

Figure 12: Some of the improvements implemented by the government in the downtown area


Final Remarks

Review and analysis of processes are essential to identify mistakes, learn from them and adapt for future directions. Since the beginning, the CCIRR and the government knew that the most challenging part of this project would be to reconcile all the different actors and interests in this area. However, the government preferred to negotiate through the institutions, specifically with the CCIRR, and several times showed more resistance to engaging directly with neighbors.

Although institutions are an important arena in which the interests of various sectors can be represented, the essence of the CCIRR is to represent business interests, which in many cases are different than those of property owners. There was an attempt from the CCIRR to represent the latter, but since they had different interests, they both should have been engaged in the negotiation with the local government. When this group of ‘Frentistas’ decided to get involved, it was probably too late, since it was hard to go back and restart the process of negotiation. At some point, the Municipal Council even rushed this process, threatening to end the negotiation and assign those resources to other projects, as some of the news regarding the CM’s sessions reflected. The presence of a facilitator or mediator could have been a key factor in leading the negotiation and managing conflict.

Another point to highlight from this case is related to communication and information. As representatives from the private sector and the CCIRR agreed, when discussing the financial part of the project, the way that the DEM communicated the method used to calculate costs and their arguments was not clear for the other parties in the negotiation.

In addition to those limitations, the way that the negotiation unfolded shows a lack of preparation, especially from the side of the government. The absence of planning, identification of stakeholders, assessments of limitations and potential conflicts, and tracking of arrangements
and final decisions are some of the limitations that affected not only the unsuccessful outcome, but also the whole process.

This process implied a huge effort and investment of time and money to agree on a project to implement, not only for sector involved in the negotiation, but also other institutions and citizens, such as those who participated in the ‘Competition of Ideas’. Consequently, there is a need for a different way to address contentious issues. The next chapter will provide some assessments and recommendations regarding this aspect of the public decision-making process. But first, the following section will describe and discuss a second case study in the context of the city of Rafaela.

Decision over the Reuse of the Old Bus Terminal Building

Context and Aspects under Discussion

The future use of the old building of the Bus Terminal of Rafaela has motivated a debate ever since the process of relocation of that building started in the middle 1990s. However, those initial discussions and ideas never translated into an actual project or decision, neither from the public or the private sector. In October 2009, after the new Bus Terminal was inaugurated,60 a private developer from the city of Buenos Aires submitted a proposal for construction of a cultural and commercial complex ('Multiespacio Cultural y Comercial') in the vacant building of the Old Bus Terminal. This proposal was made in the frame of a municipal legislation that regulates the presentation of private proposals for any public work or service.61

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60 The new Bus Terminal of Rafaela was inaugurated on May 2009. The project started in 2002 with the acquisition of the land, but because of the economic crisis, the development of the building was delayed. To finish the project the Municipal government resorted to a public-private partnership.

61 Municipal Ordinance N 2.857 from 1996 regulates the submission of private initiatives to develop public work or provide public services in the city under the direction of the Municipal
The building that the City wanted to redevelop was functioning as a Bus Terminal from 1971 to 2009; before that, it used to be the Municipal Market of the city (from 1920 to 1969) (Figure 13). Because of its historical significance and the architecture characteristics, the building represents a cultural heritage of the city of Rafaela, so in 2005 it was included in the ‘List of Protected Buildings of the City’ (Decree N 24163, DEM). The private project also would have an impact on the other significant public buildings located in the same block, which were built in different historical periods. There are several public institutions related to cultural and educational activities functioning there, including the Museum of Fine Arts; the Museum of Photography; the Municipal Historical Archive; the Public Library; and the Municipal Lyceum in addition to the Old Bus Terminal Building that used to be also an Old Municipal Market in the colonial period. All these buildings are part of what it is known as ‘Old Centre of the City’s Origin’ which in the Urban Code is defined as ‘Protected Urban Area’ (Municipal Ordinance N 4170, CM).
Figure 13: Building during the ex-Municipal Market, around 1930 (top picture) and right after the Old Bus Terminal was closed, in 2009 (bottom pictures)

Source: Provided by Municipality of Rafaela (from the Municipal Historical Archive)

Source: www.sinmordaza.com 12/2012 (left) and La opinion, Rafaela, 11/2010 (right)

The private project aimed to demolish some of the properties of cultural and educational institutions, planning to relocate them to the new building. However, the space that they would have had would be very limited as compared with what they had at that time, representing a significant challenge for the activities they develop. Since the cultural sector was one of the sectors directly affected by this proposal, four cultural institutions joined forces to present their perspective on the proposal and defend the opinion of the cultural NGOs.62

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62 The four institutions are: Asociación Amigos del Museo Municipal de Bella Artes “Dr. Urbano Poggi” (AAMBA), ‘Foto Cine Club Rafaela’, Centro de Artistas Plásticos de Rafaela “Prof. Ricardo Merlo”, and ‘Centro de Estudios e Investigaciones Históricas de Rafaela’.


On November 2009, they submitted a document to the Mayor and the Municipal Council Members, explaining their position and asking for a meeting to discuss this topic, which they had heard about from the media. They also aimed to provide useful information they could use in a complex moment when they had to determine the future use for an area that will affect the whole community of Rafaela for years to come. This document contains a letter with several considerations for the public officials from each of the four cultural institutions, including different aspects that other national and international professionals in the cultural sector have shared with them after the local actors contacted them for support and guidance.

The main reasons that the cultural NGOs had identified included:

- Prevention of the destruction of a building which used to function as the Municipal Market and the Bus Terminal, which is the only architecture vestige of the industrial era
- Giving the exploitation of a public good, where several public cultural institutions are located to a private capital developer. All citizens of the community have the right to access this space, which has heritage and cultural value that belongs to the city
- Lack of comprehension in the private initiative of the differences between Museums and rooms for Art Exhibitions. Moreover, the allocation and proportions of the total area of the project designated for the cultural activities are not clear, which created misleading expectations when trying to advocate the idea of a Commercial and Cultural Center.

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63 One of the first news that appeared in the media is from the local newspaper ‘La Opinion’, in October 6, 2009. This news was released the day before the private developer GLA submitted to the local government the proposal to build a ‘commercial and cultural center’ in the building of the Old Bus Terminal of Rafaela. Providing some basic information about the project this news was the trigger that alerted the whole community about this private initiative. Seven days after this news representative from cultural NGOs decided to self-summon to face this issue (La Opinión, October, 2009).

64 Letter from the NGO’s to the Mayor and the CM’s Members
- The proposed combination of cultural and commercial activities in the same building is questionable, and generally these kinds of developments are symbols of the global economy that contradict the traditional distinctiveness of cities

- The shopping mall will change the distinctive temporal character of the city considering the schedule that it will have (by opening until 10pm and opening on Sundays). Not a long time ago, even the business hours of big supermarkets reflected the local custom of having Sunday afternoon off.65

In addition to the cultural institutions, the business sector was the other party opposed to the private initiative to build a Shopping mall in that building. The evident impact that this project would have on the local businesses located in downtown area was the additional economic competition that it would bring to the market, the potential decline of Main Street, and the effect on the schedule of commercial activity (see Footnote 4). The commercial sector, in this case represented by the local CCIRR, knows that they cannot avoid the siting of a shopping mall or a new big commercial store. However, in this particular case they were concerned with the fact that this firm would come to the city and claim a public space mainly for private-profit activities. Moreover, during the discussion of the project regarding the revitalization of the downtown area, this commercial institution has raised the concern about what would happen to that building when the Bus Terminal moves to its new location (OE, 2010: 04).

65 The culture of the City of Rafaela, as well as in several small cities and rural areas of the country, adheres with the idea of Sunday being the day to enjoy with family and to rest. In relation to that, around 2009 supermarkets and grocery stores represented in the Chamber of Supermarkets, from the CCIRR, agreed that their businesses would not open on Sunday afternoons. In the case of Rafaela, this is just a common and verbal agreement among the businesses associated to the CCIRR, but it does not have any legal status or regulatory force.
The CCIR then released a public notice explaining their perspectives on the possibility of the development of a private project in the public lot of the Old Bus Terminal. The main reasons why this institution disagreed with the project included (OE, 2010):

- Museums and cultural sites need to have their own specific spaces in the city, in areas that will allow them to expand when and as necessary
- The destruction of the architecture heritage of the City of Rafaela is unacceptable
- The financing methods required by the private developer shows that the real estate investment value was prioritized over the other objectives of the project
- The project proposes a combination of cultural and commercial activities, but the areas assigned to each one show a disproportion, giving more importance to the commercial uses
- The project aims to solve infrastructural conditions regarding the location of cultural institutions which are already on site, but does not add new equipment or services. On the other hand, the private project includes several commercial sites, to address prospective market demand that the local commercial sector thinks is already covered, since there are several vacant commercial buildings in the downtown area
- The CCIRR claims that the approval of an extensive private development should have an impact analysis beforehand regarding the economic, the commercial and the social aspects. This institution required also taking into consideration that the city has as a value and a custom not to work on Sundays and holidays, which should be preserved

The commercial and the cultural sectors both have shared goals and perspectives, which do not include allowing a private initiative and private capital to take that public and historical heritage property to build a shopping mall, albeit each responds with slightly different motivations.
The commercial sector put a stronger emphasis on the fact that with the approval of this project, the local government would provide extra benefits to a private and non-local firm at the expense of a public good. Clearly, the local business sector was concerned about the development of a shopping mall, because of the impact that would have on the existing local businesses. The local government clearly could not stop non-local firms if they wanted to invest in private real estate in the city. Nonetheless, in this case the commercial sector did not agree with the idea of giving the company the exploitation of public land that had significant monetary and cultural value in addition to a key location in the downtown area.

The cultural sector did not want a shopping mall in that public space, but their motivation was the direct impact that it will have in the existing museums and other cultural branches, at the expense of the loss of the public good and the increase of private businesses. Although they agreed in their basic opposition, both sectors also kept advocating separately. Following the procedure established to communicate with the local government, both institutions requested to meet with officials to discuss this issue. The local government (through the DEM) called some local actors, mostly those directly involved with the issue at that point, to a meeting in City Hall. The goal that officials had for that meeting was to share the project that the private developer presented, but the cultural and commercial institutions did not change their perspectives on it.

Meanwhile, the community in general was following the situation from the media and through announcements and advocacy from the CCIRR and the cultural NGOs. During the first stage of the debate after the private proposal became public, there was no opportunity or forum to communicate or gather information and opinions from citizens and other sectors of the community, but this is part of a limitation that arose from the institutional and regulatory framework analyzed previously in this chapter. Although it is important to discuss with those
who are directly affected, this was clearly a complex issue that concerned the whole community.

Because of the resistance that the private proposal generated on the cultural sectors as well as on other members of the community, the government open the discussion. As a result, the Municipality of Rafaela, through the Social Advisory Council, organized a public debate to gather ideas to define the destination of the Old Bus Terminal building.

**Addressing the Conflict: Open Debate on the Old Bus Terminal**

The Social Advisory Council (‘Consejo Consultivo Social’, CCS in Spanish) from the Municipality of Rafaela was in charge of coordinating and calling for participation in the framework of the Strategic Agenda for Rafaela (2010-2016), under the direction of the Undersecretary of Participation and Management (SGyP).66 Other local institutions collaborated in the process, such as the Association of Architects of Rafaela; Catholic University of Santa Fe; and the ‘Civil Association for Development and Innovation, Agency of Rafaela’ (ACDICAR in Spanish).

The general goal of that meeting was to discuss with the community the future use and profile of the new project for the Old Bus Terminal, in order to achieve a potential program for that building. To accomplish that, the organizers opened the registration for all citizens, institutions and organizations to present their ideas. Other complementary goals included:

- Allow and facilitate the participation of different actors of the community
- Present other similar initiatives at the national and international level
- Provide some characteristics of the building of the Old Bus Terminal and the surrounding area

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66 See the second section of this chapter with more information about the CCS.
• Formulate different alternatives for uses, operation, administration and financing
• Formulate technical and political criterions for the evaluation of alternatives and for the decision-making

The event consisted of presentations of case studies, conferences, roundtable debates and participatory workshops, in which more than two hundred (200) people participated. After the opening remarks from the representative of the CCS, two officials representing the Department of Public Works and Urban Planning (SOPyPU) presented some characteristics about the building and the area. After that, two architects specializing in urban planning, who were also helping organize the event, talked about more contemporary forms of urban developing such as public-private projects, mixed-use developments, and preservation of public spaces. Several professionals presented five case studies related to similar urban renewal projects and restorations of historical buildings. This section of the meeting included a video-call with a specialist on urban topics from Spain, Jordi Borja, and an international urban development specialist from Chile, Pablo Trivelli.

Later, twelve proposals registered according to the requirements set out by the organizers were presented during the seminar, including the private initiative from the developer GLA. The diverse spectrum of the ideas presented shows the common interest making this area a more dynamic space, but putting the emphasis on different uses. The dominant desire was the preservation of this place as a public good, with the exception of the private proposal, which kept the original idea of building a shopping mall. At the end of the event, the public broke out

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into small group discussions, conclusions from which were shared at the end with the entire group, with some finals remarks from the organizers.

After this participatory event, the CCS was in charge of summarizing all the information gathered and working to identify the main points for consideration when making the final decision about the future of the Old Bus Terminal. However, not all the officials agreed that the CCS should have the responsibility and role of doing that, specifically the president of the Municipal Council. The legislator did not adopt any particular position regarding the final decision of the CCS, but he expressed that the determination of the final use of that building should be reach through a different agreement; maybe including the whole community one more time. This local official thought that, even though the CCS is an important space for advisory and debate, in which a significant number of institutions are represented, it does not represent the voice of the whole community. Finally, he considered that probably the Municipal Council is a more appropriate institution to make these important decisions, considering that its members are elected directly by the citizens.  

Besides these dissimilar perspectives, the CCS led the determination of the final project idea based on the inputs from the participatory debate. The proposal developed around December 2010 contained a definition regarding the use of that space as a ‘Public Corridor, Cultural Complex and Convention Center’. This aims to be a recreational and cultural public space open to the community and visitors, and consists of an integration of public cultural activities and

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68 Although as part of my interviews I could not reach the president of the Municipal Council, there is an audio recording available online with an interview with a local newspaper regarding this issue (Gerbaudo, La Opinion, February 2011).
institutions (including the institutions already located in the building), some commercial activity, a convention center and other services.\textsuperscript{69}

After this official decision over the use of the building, the process to implement these ideas also contained a participatory component, but in this case with the professionals capable of designing a real architectural project. Following similar characteristics of the competition for the Downtown Revitalization Project, the Association of Architects organized another competition with a strong guidance for participants. All those professionals interested on presenting proposals to redevelop the building participated in a workshop that contained key aspects to consider when developing the project proposal. A recognized architect from Buenos Aires, Nicolas Bares, was hired as an external coordinator of the competition and workshop. From the eight (8) proposals, the winning project\textsuperscript{70} is the one that the local firm Menara is currently developing after it got the first place in the public bidding process, where three developers participated.\textsuperscript{71} The project was divided into different phases considering the scope of the project. The municipal government is in charge of the first phase, restoring the main section of the building and the Alley Ciudad de Esperanza.\textsuperscript{72}

\textsuperscript{69} News from the official website of the Municipality of Rafaela and from the local media as well as comments from interviews

\textsuperscript{70} The architecture firm that won the competition was also the one that was collaborating at the beginning with the firm GLA on the private proposal to build a shopping mall. However, as the different actors that I interviewed agreed (from the government and the community), the competition was transparent and the judges had strong arguments for its selection.

\textsuperscript{71} Municipal Decree, DEM, N 35.175 designates \textit{Menara Construcciones} as the firm in charge of building the project as a result of a public bidding.

\textsuperscript{72} Project approved on September 2011 by Municipal Ordinance N 4473, CM, which authorizes the DEM to develop the Public Works ‘Revitalization, Increase the Value, Recycle and Expansion of the building of the ‘Ex-Municipal Market’ based on the ideas from the debate and the project that won the competition.
Final Remarks

In the case of Rafaela, it was the first time the municipal government implemented this participatory mechanism in the process of decision-making over a publicly significant urban issue. Opening the debate to the larger community was very rich and essential to determine the redevelopment of the building of the Old Bus Terminal, as expressed by the actors involved in the process. This seminar was an opportunity for different sectors and members from the community to express their ideas and perspectives. At the same time, it allowed the government to gather more information in order to make the most accurate final decision about the future use of this space.

As the literature on collaborative planning indicates, achieving consensus does not mean that everybody will agree with the final decision, but it is a better, more effective way to make informed decisions and open opportunities to listen to different opinions and learn from them. One of the main responsible parties of this seminar affirmed “it helped everybody to open their minds [to different perspectives on this issue]”. It was a solution to manage the controversy and resistance that this issue was generating while achieving an agreement that fulfills the needs and concerns of the majority of the community.\(^\text{73}\)

This official also pointed out that it was important to have clear rules, goals and mechanisms from the beginning to achieve an effective process. One aspect that was a key factor in this specific case is that all of the discussion and participation translated into something concrete; it was materialized in the program for the building. The challenge of all participatory practices is

\(^{73}\) Interview with a representative at that time of the local government
that sometimes they are just ‘tokenism’ or discussions do not evolve to the stage of implementation.\textsuperscript{74}

While believing that the process ended up successfully, one of the officials leading the participatory process thinks there are some debates that should go deeper in order to evaluate strengths and limitations of this decision and how municipal government can manage conflict.

Finally, it is important to recall that this was the first time the city implemented this participatory mechanism in the process of decision-making over a public and significant urban issue in the city of Rafaela. Please see Table 2 for a summary of the case studies.

\textsuperscript{74} This aspect was mentioned for several actors interviewed. Representatives from the cultural sector, professionals, and public officials who participated previously in the Strategic Plan of Rafaela which consolidated around 1996, agreed that people often get tired of these processes and discussions if they do not see that it is translated in a real project or decision.
Table 2: Summary of the two processes selected as case study

<table>
<thead>
<tr>
<th>Who initiated the process? When?</th>
<th><strong>DOWNTOWN REVITALIZATION</strong></th>
<th><strong>FUTURE USE OF THE OLD BUS TERMINAL BUILDING</strong></th>
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<tbody>
<tr>
<td>The idea originally arose from the business sector, which suggested the Executive Municipal Department (Major) (DEM) to renew and revitalize the downtown of the city Started around 2006 with the agreement between the municipal government, the Chamber of Commerce (CCIRR) and the Association of Architects to renew this area of the city</td>
<td>In 2009, Real State GLA S.A. from the city of Buenos Aires presented a ‘Private Initiative’ to the MC of Rafaela to build a shopping mall in the Old Bus Terminal building. Some informal discussions were initiated many years earlier in the local community, but with no progress.</td>
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| Policy issue | NEED FOR REVITALIZING THIS AREA THAT HISTORICALLY WAS THE COMMERCIAL CORE Interests from the public and private sector. The first one agreed and supported the idea of renewing this significant area of the city, which initiated from the private sector. | NEED TO INTERVENE RELATIVE TO A BUILDING THAT WAS UNUSED IN THE DOWNTOWN AREA The Bus Terminal was moving to a new location and the debate of what to do with the Old building arose. The government supported a private initiative that was presented to the MC but the community, especially the cultural and business sectors, reacted and expressed their opposition to the private project |

| Context | Downtown of the City of Rafaela has had the same layout and aesthetics for years. Other centers were growing as commercial areas and increasing their importance (private sector concern with the polarization/division of commercial areas that will compete for attracting businesses and clients) Opportunity to use the architectural heritage to make the area more attractive | Before functioning as a Bus Terminal (1971-2009) this building was developed to site the Municipal Market of the City of Rafaela around 1920. This landmark was included in the list of ‘Protected Buildings of the City’ in 2005. The Bus Terminal moved and the building was highly neglected, demanding a significant investment. For the long time that discussion for the new use was happening, the building was abandoned, sometimes being used for parking and temporary activities. This project is related to the Downtown revitalization since the building is strategically located in downtown area. |

| Main objectives | Renew the image of downtown while promoting commercial and recreational opportunities. Improve its functionality making it more pedestrian friendly, among other improvements | Find a new use to the Old Bus Terminal building. To increase the connection of that area with the main commercial corridor on Main Street) |
| **Specific goal of the business sector:** | Improve the aesthetic of the area to make it attractive for businesses and customers in facing the increase of other commercial areas in the city. |
| **Specific dispute/crisis?** | Did not arise from a specific crisis but during the negotiation between the government and stakeholders the process became controversial to the point that the parts could not reach an agreement. The New Bus terminal was being built and different sectors started to wonder and discuss what would happen with the old building. At the end of 2009, a private developer company from Buenos Aires, motivated by a local architecture firm, presented a project proposal to build a shopping mall in that property which was part of the public and historic heritage of the City of Rafaela. Different sectors in the community responded to that proposal. |
| **Main Stakeholders/Actors involved** | Since the beginning: Chamber of Commerce (CCIRR) representing local businesses and property owners; Municipal government; and the Association of Architects of Rafaela Later in the process: Property Owners 'Frentistas' decided to negotiate separately from the CCIRR Since the beginning: Private Developer (Real State GLA); Local government; CCIRR; and Cultural NGO's Later: the whole community |
| **Process** | Stakeholders negotiation At first, the municipal government attempted to negotiate among stakeholders, but several sectors in the community showed their disagreement with the private project. As a result, the discussion for a new use for the building was opened to a participatory process. |
| **How was resolved?** | After years of discussions and negotiations, the project was not approved since the ‘Record of Opposition’ reached the percentage threshold needed for rejecting the project. Property owners and especially several ‘Frentistas’ signed the registry because they did not agree with the amount of money they would pay for the project. The project in the way that was submitted to the MC did not proceed. But after that, the municipal government has implemented some improvements as part of public works improvements. To address the opposition and controversy, the government called for a participatory debate in which different sectors and members of the community presented their ideas. From this debate the area in charge (SGyP and CCS) came up with a program of uses that postulates the final idea of a cultural complex and convention center. For implementing the results of the participatory debate, the government organized another competition for professionals interested on presenting project proposals. After a process of public bidding, a local firm is developing the selected project program. |
Conclusion on the Case Study

The projects selected for the case study, which exemplify issues about collaborative planning, provide several lessons based on the successful and unsuccessful aspects, most of them showing some asymmetries to highlight.

First, they share the fact that they represent experiences with no precedent. In the case of the ‘Downtown Revitalization’, it was the first time that a project to develop any kind of public works failed because of the opposition of citizens. Moreover, the original idea of revitalizing the area emerged from the business sector and the government and different parties did a significant effort to negotiate an agreement. On the other hand, in the case of the project of the Old Bus Terminal building it was the first time that the local government organized a public debate to work collaboratively with the community on making a decision about a significant space in the city of Rafaela. Therefore, this case is being used as an example of effective governance, especially by the local government. However, it is important to highlight that the idea of calling for a participatory initiative did not come up from the beginning, but only after the community, especially two well-organized sectors, reacted and opposed to the private initiative to build a shopping mall in that building. This is one of the important lessons to take away because probably without the reaction from the community, the private project would have been implemented as originally conceived.

Second, both projects illustrate how conflict can be used as an opportunity to work collaboratively in order to find consensus and make more legitimated decisions, especially when it comes to public space or issues that affect the whole community. The project of the Downtown Revitalization demonstrates the need for finding different means or ways to conduct this kind of processes. On the other side, the Bust Terminal case showed a successful
collaborative process based on conflicting interests, although it was not planned in this way originally when the problems with the building started and were first identified.

The third lesson that the two projects have in common is related to the way that the information regarding issues and treatment of projects/proposals is shared with the community and the affected interest. During the negotiations about the financial aspects of the project for downtown revitalization, the information that would serve to determine the agreement or discrepancies between parties was not clear enough nor well adapted to the audience. As several interviewees recognized, besides the disagreement about the financial aspects, there was a problem of communication and how the information was shared. In the case of the Old Bus Terminal issue, which clearly represented a public concern, the communication with the community and the information shared was not enough to make the process inclusive and transparent, particularly at the beginning before the public debate was proposed. Since that point, the situation was very different in terms of how inclusive and collaborative it became.

Finally, the fourth common aspect is that to some extent not all the affected parties were brought to the decision process in a way and/or at a time that might allow them to establish more successful relationships, dialogue and negotiations. It might not be because of the unwillingness of the government, but more about how information usually reaches the community and the affected sectors, such as through the media, which most of the time have a selective bias or limited perspective on such public situations.

In that respect, this case study forces observers to reconsider the institutional mechanisms and regulations related with this kind of processes. As I explained at the beginning of this chapter, regulations at the provincial and local level do not mandate any kind of public participation during the planning process, even though it has been encouraged by the process of
decentralization and explicitly in the last amendment of the National Constitution in 1994. This could have been an important factor facing the issue of the Old Bus Terminal Building in a different way from the beginning, especially because in this case the decision affected a landmark with a significant cultural meaning for the community. Since it is not mandated or part of regulations, it depends on the goodwill and intentions of every local government to make processes and decisions more inclusive and participatory. These kinds of instances would be important to complement some other mechanisms related to urban development, such as the regulation to present private initiatives, under which the private developer presented the project to build a shopping mall. This mechanism represents an important opportunity for towns in Argentina in order to promote private investments to pursue improvements that will benefit the whole community. Nonetheless, it is crucial to have instances in which it can be discussed to reach consensus with the community, and not only be addressed by the legislative body.

The case of the ‘Downtown Revitalization’ had some asymmetries with the case of the ‘Old Bus Terminal building’, because it consisted of a stakeholder negotiation. Although all the steps followed in the negotiation process were part of the governing process, there are still some aspects that should be reconsidered in relation to how the negotiation and dialogue was conducted, as I will discuss in the next chapter as part of the recommendations.

Additionally, the way that the decision processes unfolded invites policymakers to reconsider the role and approach that planning has in the city and in the government structure. In both cases, the department and areas that were mostly involved in the negotiations were the Department of Public Works, at that time also in charge of Urban Planning (SOPyPU), the Executive Department and the Municipal Council. Even though a Department of Urban Development, Land and Housing (SDUSyV) was created as a separated area after the current
mayor took office, the role that planning has is still missing the inclusion of the community in
the process. The Department of Government and Citizenship (SGyC), with the undersecretaries
and programs that it comprises, is the area that works on increasing the relationship between
the government and the community in the definition of policies and decisions, most of the time
directly related to urban space. This goal has been one of the central objectives of the process of
decentralization that has allowed greater local autonomy in Argentina since the 1980s.
However, there are few interconnections between this area of the government and the planning
department, which remains as a more technical profession.

The results of this case study allow for identifying of opportunities and challenges to undertake
processes of decision-making in a different, more collaborative way in the context of the City of
Rafaela. Furthermore, there are important implications for planning, which I will analyze in the
next chapter, in addition to some recommendations based on the integration of the case studies
with the theoretical framework of this research.
CHAPTER 5

ANALYSIS AND ASSESSMENT OF THEORY RELATIVE TO PRACTICE

The goal of bringing together the ideas from collaborative rationality with the contributions from urban governance relies on identifying some potential interconnections between them that would allow for the enhancing of planning practice and theory, as described in the conclusions from the literature review. At the same time, the aspects reviewed as part of the case study chapter of this research allow for greater understanding of the ways that decisions regarding the urban space are made in the city of Rafaela in the context of its institutional and regulatory framework. The articulation between practice and theory indicates several results to highlight, as well as opportunities and challenges to move toward more collaborative initiatives in planning in the city of Rafaela.

Overall, local planning still has a more traditional technical approach on urban issues, which is in part explained by the out-of-date regulations and the limited attention that planning has had on the institutional framework (regulations and government structure), especially at the local level. Consequently, this has important implications for planning, since the profession is not seen as the field that can help making that change on urban governance as the contributions from collaborative rationality and planning aim. When thinking about enhancing urban governance to allow more collaborative processes, it is necessary to reconsider which is the role of planning and where it fits within the governance process.

As part of the more traditional and expert-based approach to planning that still predominates, there are limited mechanisms to gather information and include local knowledge in the process of decision-making in planning, as the cases and the analysis of governmental structure and regulations prove. The governmental areas and initiatives that are more concerned with
community engagement and participatory practices are still less integrated with the planning department and programs. This situation is also related with the general belief that officials have in terms of the opposition or resistance to new projects and ideas that they generally find in the community, as expressed in interviews. Not providing any opportunities for citizens to engage in the process to express their ideas and interests regarding specific issues that affect public good generated more resistance and opposition. That does not mean that having some kind of participatory or collaborative instance in the process will guarantee that the whole community will agree with it, but they represent mechanisms to make more successfully legitimated decisions, using community inputs.

Although usually collaborative processes take longer and require significant efforts from all members involved, they prove to have more effective outcomes and allow all interested parties to be more involved and to learn throughout the whole process. This was clear in the case of the Old Bus Terminal, but only after the community reacted and the subsequent participatory debate happened. Even though some representatives from the public sector, who were directly involved in the processes described here, recognized the limitations and challenges during the political process and agenda to stop and do some evaluations, it is necessary to do it as part of the whole learning experience, which can help in changing or improving the governing process. Additionally, making information available and accessible, and having better communication with the community are key goals to increase transparency and enhance the relationship between government and citizens.

When addressing conflict and conducting negotiations among stakeholders and the community, many of the limitations seem to be related to problems with communication and dialogue. This aspect is emphasized by the contributions on collaborative planning reviewed in this research,
which help drawing several recommendations to conduct this kind of processes more effectively, as I will discuss later in this chapter.

A one of the arguments for increasing collaborative processes, the literature on collaborative planning emphasizes the fact that in general government structures show less flexibility to adapt to the rapidly changing urban social dynamic. In that sense, the contributions examined in this research identify or encourage collaborative processes happening outside the formal governing processes. However, the urban governance contributions require a greater effort to think about these collaborative mechanisms in the framework of all the various institutional conditions that support them, in order to improve the relationship between government and citizens. As the case study showed, it is important to think about these collaborative practices as an opportunity for the government to open the process of decision-making regarding urban issues and to make processes more transparent. There are moreover some clear opportunities to articulate better the initiatives and efforts that already exist, which will allow for increasing the integration of citizens in the governing process, especially when issues regarding the use of and access to urban space demand it.

The two projects that are part of the case study chapter also exemplify very differently the way that conflict is recognized and is used in the process of decision-making. For instance, the case of the Old Bus Terminal building and the participatory process that happened at the end demonstrates the opportunities to work collaboratively using conflict in a productive way in order to make decisions that are more inclusive and representative. Conversely, the case of the Downtown Revitalization demonstrates the limitations to addressing and using conflict in a more effective way. Both processes demonstrate the need for moving toward a more proactive approach regarding conflict and planning issues in general.
Recommendations

There are some limitations to change municipal regulations, but there are also some clear opportunities for local governments to implement mechanisms that would help to give planning a significant space to improve the relationship between government and citizens. Increasing mechanisms to engage citizens in the decision-making process and the definition of policies is supported as part of the process of decentralization and in the last amendment of the National Constitution of Argentina. Specifically in the case of Rafaela, initiatives and projects from the Department of Urban Development, Land and Housing can be articulated with the efforts that the Department of Government and citizenship is doing in outreach to the community. The Advisory Council can keep working as a platform to discuss some particular issues and decisions with institutional representatives, which can help getting some ideas on how to treat or conduct processes in a more collaborative and inclusive way. Changing the function of the Municipal Council might be more complicated and ambitious, but it would be possible to consider an alternative to provide a more open forum to the public during the presentation and discussion of projects. Particularly for the treatment of projects and issues that have a significant impact for the community, the opportunity to hear from the government or the parties involved in the project proposals is a key element in the process of communication and openness of the government.

The challenge related to this goal of increased participation lies in the difficulties that some government structures or officials face in implementing changes in the way that they made decisions, in part because of the fear of losing power, especially the Municipal Council, which is the principal legislative body. Because of that, it is crucial to make clear the respective responsibilities and rules of the different departments in the government, but also when there is some potential for a participatory mechanism in the decision-making process. Engaging the
community beforehand in the process does not mean taking away the current roles that the CM or the executive have, although it may be a challenge to determine how to balance decentralization of power.

The opportunity of integrating the community and stakeholders beforehand in the decision process regarding urban issues will allow for discussing and finding common ground in support of more legitimated decisions at the end. In other words, it would help to avoid adopting the approach ‘Decide, Announce and Defend (DAD)’ (Innes; Booher, 2010:214) and enable more process-legitimated decisions. Moreover, making processes more inclusive to stakeholders and community members would work toward further addressing social equity as one of the general goals of planning. The challenge that is always present in organizing any participatory instance is getting the community engaged, especially when there have been past experiences that were not very successful or when the community feels that they are just ‘token’ efforts. Because of that, in order to conduct successful participatory and collaborative practices rules, goals and responsibilities should be very clear from the beginning.

It is also important to recall that a collaborative approach to decisions regarding urban space is not always the solution or panacea in planning or in any other professional field. As the literature explained, the topic or issue should be one of significance for the community, but particularly for complex and conflictual decisions that affect different interests such as the one examined in this research. In that sense, it is essential that every mechanism and tool to facilitate implementation is decided based on the problem to address, because there is not only a single, unique solution. An assessment of the situation must be conducted previously to decide on the most suitable types of approach to take over the issue.
The cases examined in this research have shown that there is a need for understanding how to manage conflict in a better way, using it as an opportunity to work collaboratively when addressing specific issues. When it comes specifically to the way that negotiations and collaborative decision-making processes are conducted, there are several conditions to address, based on the contributions examined in this research and reflection on the projects that are part of the case study. The first step is the identification of stakeholders and all affected interests regarding the issues or topics to be addressed. After that, a conflict assessment would help to provide a picture of the different disputes and interests around the issue in contention as well as useful information in order to decide how to proceed. At the same time, this assessment is usually relevant considering that there are different levels of power and types of roles among the various interest groups. Another condition is related to providing clear information about the issue, particularly to the different parties affected, balancing right to know with right to privacy and property. This point is directly connected with the means of communications and making sure that the information is adapted depending on the public or recipients. During the negotiation process and dialogue, it is important to find a common vision that will instruct and guide actions. Other aspects regarding the process itself include: conducting authentic dialogues; interdependence of participants and reciprocity; diversity of interests and representation; and using the whole process as a learning experience, getting to know and understanding different perspectives. A facilitator or mediator, who has a more neutral position, is essential in conducting more effective negotiations to resolve conflict and in balancing uneven distributions of power.

These experiences, whether successful or not, leave important aspects to learn from, so it is important to conduct some post-process evaluations and documentations. One of the challenges that planning has faced in this governing context in Rafaela is how to set and work
toward long-term goals and projects that will continue beyond the terms of the people that are in office at the time. As several interviewers stated, the community often gets tired of participating and engaging on initiatives that are not used or implemented only because the government officers or agendas change.

Finally, one of the challenges that the context of Rafaela presents is the need for enhancing the institutions of civil society. While this community is already characterized for the significant number of institutions and organizations, it is necessary to keep encouraging the participation of citizens during the governing process. The efforts of implementing more collaborative and participatory processes in planning should go together with teaching the community the importance and benefits of getting involved and using them to be an active part of the decision-making process.

There are some aspects that are specific to the case study and cannot be generalized to other cases. In relation to government structure, although the Organic Law for Municipalities in Santa Fe Province provides general regulatory aspects regarding structure of municipalities, the organization of departments and areas in the local government depends on the constitutional and legal development for each specific place.

The analysis and conclusions provided in this research regarding the roles, responsibilities and initiatives of departments related to planning cannot be easily transferred to other cases, because of the regulatory and institutional aspects that are specific to Argentina. However, the restructuration of departments and areas are useful examples of how some institutional changes can help in encouraging broader-based governance and more collaborative practice in planning. That is the case for instance with the creation of areas in charge of governance,
participation and community engagement, and the separation of Urban Planning from the Department of Public Works.

Moreover, the two processes analyzed are very specific to this community, but the conclusions and discussions may provide some general insights on how to address conflictual issues more effectively, and which aspects in particular should be considered most critically when trying to improve the relationship between government and citizens.
CHAPTER 6
CONCLUSIONS

This research was based on the assumption that contentious decisions regarding urban space can be made in a more collaborative way, engaging different interests in the process in order to make more legitimate and transparent decisions. However, this research has also addressed how necessary it is to think about the relative importance and effectiveness of those collaborative rationality mechanisms and practices within the urban governance framework.

The effort to assess the results from the public decision-making process within the context of the local regulatory and institutional framework shows the necessity of examining these aspects in a complementary way, in order to think about how best to improve governance modes in such a way as to allow the implementation of more collaborative processes in planning. At the same time, the aspects discussed in this research provide a hopeful example of planning potential role.

Every component of thesis research, from the literature review to the case study, addresses the objectives and questions of this research. The goal of including a full and extensive analysis of the case study relied on the few studies that are available on this topic, especially in the context of the city of Rafaela, which has usually been presented as a successful model due to prior positive experiences. Moreover, the two processes describer left important lessons and contributions that had not hitherto been documented, which is another contribution that this research offers. The different constitutional and regulatory aspects of national, provincial, and urban governance are another important piece in framing the articulation between collaborative processes and urban governance, since they helped to understand the ‘big picture’ context regarding the governing process. That piece implied an extensive research process too,
since there is a gap in the literature regarding regulations and institutional conditions that affect planning in Argentina at the different governmental levels.

There is a need for further research in other areas that will complement and expand on the aspects covered in this research. Analyzing the role of civil society in general was not the focus of this research, but it is a critical area to explore in future research. That kind of assessment will allow the discovery of more accurate mechanisms to engage citizens throughout the process of decision-making in planning.

As part of the study of urban governance, further attention should be placed on analyzing the determination of the areas and issues that inform urban policies, and how this process can be improved to make it more inclusive of different sectors in the community.

Further studies should also focus on understanding the interaction and articulation between different governmental levels and departments related to planning. There are some initiatives that the provincial government is trying to encourage in Santa Fe as regards to strategic planning, which seems not to be capitalized upon by local governments, sometime because the political party in local office is an opponent of the provincial government. At the same time, there are similar initiatives in implementing a strategic territorial plan at the national level, which intends to work collaboratively with provinces, as I briefly mentioned in Chapter 3 of this research. However, this national program is not currently considering the efforts that already exist at lower territorial levels. Such a study should assess the initiatives and mechanisms that exist at the different levels, and how they can be integrated with other initiatives that are functioning at the local level, in a way that will avoid overlapping and waste of resources and efforts.
Finally, since the historical perspective and current situation of the professional and disciplinary field of planning is directly related to the current academic programs, it will be essential to evaluate the most influential academic institutions and the planning-related curricula available in Argentina. This kind of research should illuminate those aspects that have not been covered, as well as what can be improved in training future planning professionals.

I hope that this research contributes to continued study in how to improve the relationship between citizens and governments in the process of decision-making regarding urban space. Moreover, I hope that this research will serve as a basis to continue discussing the vital role and functions that planning can have, especially in Argentina, where the profession is still in the process of institutional delineation.
APPENDIX

MOST RELEVANT ENVIRONMENTAL REGULATIONS IN ARGENTINA

I summarize in this section the most relevant environmental legislation currently in effect in Argentina. They are also the regulations that support the aspects included in Section 41 of the National Constitution. Most of these regulations are explained in a Report from the Department of Environment and Sustainable Development, National government of Argentina (SAyDS, n/d) and in the web page of this department.

The Environmental General Law N 25.675 is a General Law that articulates the system of minimum budgets, establishing the goals, principles and mechanisms of the environmental management and policy. Those aspects shall be addresses in environmental regulations, decisions and actions of the different governmental levels. In addition to that, the legislation regulates environmental damage than have a collective impact, enforcing financial responsibilities for that kind of activities that represent an environmental risk. This legislation is further supported and extended in the National Law N 25.831 Free Access to Public Environmental Information.

Regarding waste management, there is a specific legislation for industrial activities and another one for residential waste. Law N 25.612 Management of Industrial Waste allows the Executive National Branch, in the domain of the Environmental Federal Council, to determine essential aspects regarding levels of risk of different kind of waste, depending on their origins. This classification of waste allows the legislation to cover more types of waste and not just the hazardous forms, which has its own specific legislation, as I will describe later.

However, this legislation has been raised several conflicts, including how the levels of risk are determined (Section 7) and the transportation among different provincial jurisdictions (Section 26). Because of that, the Department of Environment and Sustainable Development elaborated
a Legal Statement including critical aspects of the Law N 25.612 that do not allow its regulation and restrict its implementation (SAyDS, n/d: 30).

Regarding residential waste, *Law N 25.916 Environmental Protection for Integral Management of Residential Waste* regulates residential waste from residential, urban, commercial, institutional, care, industrial, and sanitary waste, except those that are regulated by specific legislations. This regulation defines ‘residential waste’ as those elements, objects and substances that are wasted or abandoned after going through processes of consumption and development of human activities. It also requires the development of an Environmental Impact Analysis before fitting out dump areas.

*Law N 24.051 Management of Hazardous Waste* defines hazardous waste as all waste that can damage, direct or indirectly, live organisms, soil, water, atmosphere and the environment in general (Section 2).\(^7\) The *Law N 23.922* approves the Agreement of Basel (Switzerland) regarding the control of transporting and eliminating hazardous materials among different jurisdictions, with the goal of reducing this movement. Law N 24.051 also adopts the classification of waste that is part of the Agreement of Basel (SAyDS, n/d).

*Law N 25.688 Environmental Management of Water* establishes the minimum environmental principles for preserving water, its exploitation and rational use. Among the responsibilities that the Operational Authority has, it is the elaboration and update of National Plan to accomplish the goals of this legislation.

Other environmental regulations include *Law 22.428 Encouragement of Soils; Law N 22.284 Preservation of the Air Resources; Law N 25.278 Rotterdam Agreement* regarding pesticide and dangerous chemical substances that are traded internationally; *Law N 26.331 Protection of Native Forest; Law N 26.737 Protection for the National Domain over Rural land.*

Environmental Regulations in the Province of Santa Fe

General Provincial Law N 11.717 of the Environment and Sustainable Development, enacted in 1999, is in line with the General Law that addresses similar issues at the national level.\textsuperscript{76} It is important to mention that among the different aspects that this provincial regulation covers there is a Chapter (V) related to Citizen Participation, in which recognizes the right to call for public hearing (‘\textit{Audiencia Publica}’) where different people and institutions, public or private, can debate about topics related to environmental impact of certain projects and developments. However, it says that recommendations that come from those meetings are not binding, in other words, they are only advisory.

Sections 118, 19 and 26 of the law determine that any person responsible for any project that might have an impact on the environment must present a study and report with an environmental impact. However, this legislation does not provide further information about that process and study. Therefore, the Statutory Decree 101 from 2003 regulates the specific aspects regarding Environmental impact that are not clear in Law N 11.717.\textsuperscript{77} With that goal, the Decree addresses the following aspects: \textsuperscript{78}

- Section 2 defines technical concepts;
- Section 3 establishes that any project that might alter the environment can be initiated without first being approved by the respecting authority;
- Sections 8 to 18 set the steps for the Environmental Classification;
- Sections 19 to 24 establish the steps to follow in an Environmental Impact Evaluation;

\textsuperscript{77} Statutory Decree N 101/03, Province of Santa Fe, Argentina: http://www.santafe.gov.ar/index.php/web/content/download/7098/40320/file/Decreto%20N%C2%BA%20101-03.pdf
\textsuperscript{78}Environmental Regulation of Santa Fe Province, Department of Environment and Sustainable Development, National Government: http://www.ambiente.gov.ar/?idarticulo=1631
Sections 25 to 29 establish the steps to follow to achieve the Environmental Capacity Certification;

Section 36 states the creation of a Record of Consultants, Experts and Proficient; and

Sections 52 to 55 establish the steps for the Public Hearing.

This law has motivated the approval of other important legislation regarding areas located along river corridors, which present several issues in the case of Santa Fe Province since it has several urban areas or settlements in the floodplain of rivers.⁷⁹

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⁷⁹ Those legislations include: System of Protected Areas (Provincial Law 12.175/03); Land Uses Regime for Flooding areas (Provincial Law 11.730/00); and Law for the Conservation and Land Management (Provincial Law N 10.552/91).


News Articles


Interviews conducted

Interview with a representative from the cultural NGOs, March 19, 2013.
Interview with a representative of the CCIRR, March 20, 2013.
Interview with a representative from the CCIRR at the time and as a ‘Frentista’ later, March 18, 2013.
Interview with a representative from the CCIRR at that time and as a private property owner, March 21, 2013.
Interview with a representative of the Association of Architects of Rafaela, District 5 at the time, March 20, 2013.
Interview with a representative from ‘Frentistas Auto-convocados’ and property owners sector, March 22, 2013.
Interview with a current member of the Municipal Council, Municipality of Rafaela and a member of the SOPyDU at that time, March 20, 2013.
Interview with a representative from the CCS and SGyP at that time, March 22, 2013.
Interview with a representative from the SDUSyV, March 26, 2013.
Interview with a representative of Neighborhood Organizations, Municipality of Rafaela, March 21, 2013.