

FIG WORKING WEEK 2019

22-26 April, Hanoi, Vietnam

Presented by the FIG Working Week 2019,
April 22-26, 2019 in Hanoi, Vietnam

"Geospatial Information for a Smarter Life
and Environmental Resilience"



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Modeling the Complex Land Administration in Brazil

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Objective

- To present the land registration process in urban areas in Brazil using modeling of land administration, that it was possible to visualize the complexity of the procedures of registration and transfer of a property in the urban area.

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Land Registration in Brazil

- The registration and transfer of a property in Brazil pass through a procedure involving Notaries, Registrars and City Hall.
- These institutions do not work in an integrated way, the owners are forced to go through several institutions in search of various documents to register or transfer.
- Only 30% of properties in urban areas are formally registered, what means they have a title registered in the Real Estate Registry and can be transferred normally.
- The other 70% of the property either have some form of irregularity, such as having been part of the legal proceedings, or have no document being for years only possession

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Cadastre in Brazil

- The cadastre of urban areas in Brazil is carried out by municipalities and there is no national guideline for its operation.
- It is called a real estate cadaster and has as basic purpose the collection of taxes and fees of works of improvements and municipal services.
- In the urban area, there are 5,561 municipalities, each with its own register, without standardization and without integration, without any central coordination. This explains why not having a sign that demonstrates the totality of the national territory.

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Methodology

- The range of informality situations is quite broad and it would not be possible to demonstrate all of them here. Three common situations have been chosen and will be presented as follows:
 1. Procedures for transfer a formally registered;
 2. Procedures for registration of a semi-formal property* (individual proceeding);
 3. Procedures for the registration of an informal settlement** (collective proceeding).

* Semi-formal property is one that has a property registry, but which, when transacted, did not carry out any or all steps of the transfer procedure.

** Informal settlements may be non-regular neighborhoods, subdivisions without documentation, occupations already recognized informally by the municipality.

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1. Procedures for transfer a formally registered

According to the law, the transfer of property rights requires a public deed of purchase and sale that must be registered in the registry office. For this, the indicated procedure has 6 steps, requires the submission of 16 documents, it takes on average 30 days to completion and costs approximately 3% of the value of the property. (Doing Business, 2018)

It is important to note that in this procedure there is no map requirement.



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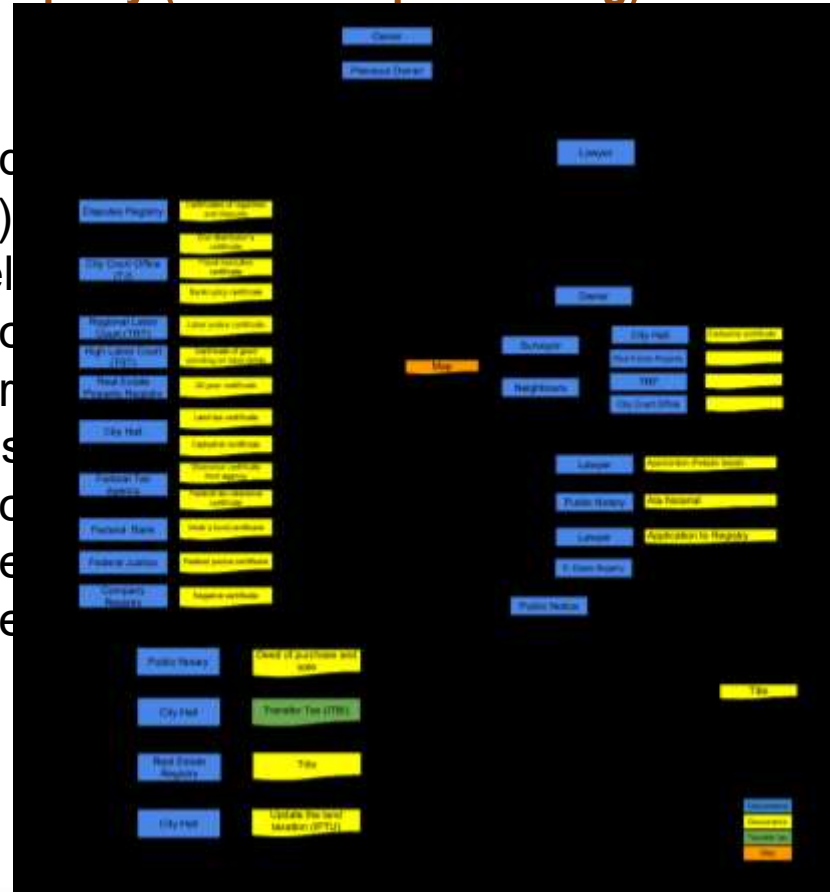
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2. Procedures for regularization of a semi-formal property (individual proceeding)

It is very common in Brazil the so-called "drawer contracts" ("contratos de gaveta") that is, people make a simple buy-and-sell contract at the time of the transaction and do not complete the transfer process. However, as registrars say, "who does not register does not own it", that is, does not hold the rights to that property, and even having paid the amount stipulated in a contract, may lose the property.



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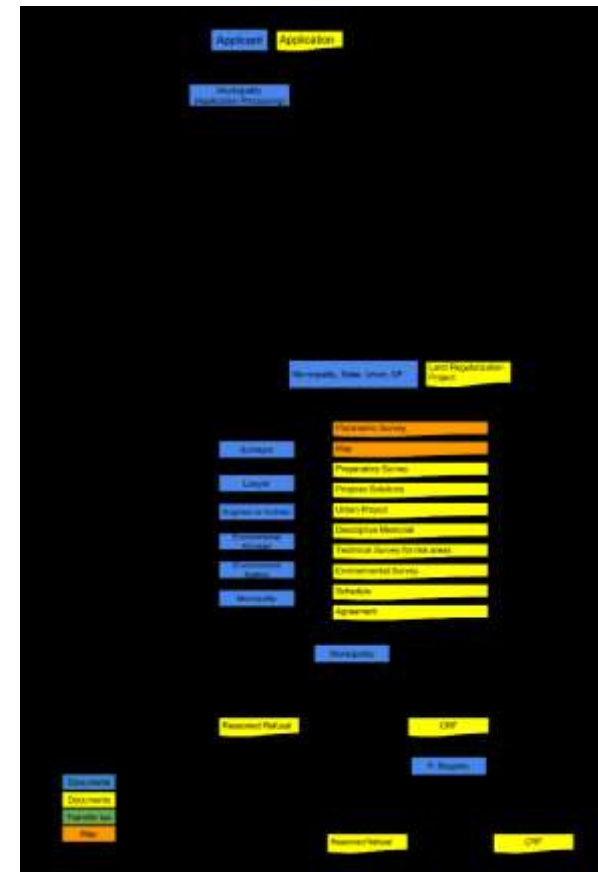
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3. Procedures for the regularization of an informal settlement (collective proceeding)

This process is all carried out under the responsibility of the municipality and the Registry of Real Estate that have the final decision regarding the registration of the properties. The other activities and professionals involved, such as surveyors, lawyers, engineers, environmental specialists) must be hired and coordinated by the municipality.



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Conclusions

- Based on the models designed, it was possible to verify that the pluralism of laws and procedures that involve the land registration and the cadastre of the urban lands result in a complex land administration and makes the legal security of the property fragile.
- The difficulty of integration is due mainly to the fact that responsibility for implementation and maintenance of the cadastres belongs to each City Hall and have over 5000 municipalities in the country. These cadastres are only descriptive and do not have georeferenced maps. Moreover, this cadastre rarely covers the whole territory of the municipalities, since the competences between the rural and urban cadastres are different. In the municipal cadastre, coverage is restricted to urban areas and urban expansion.

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