

On decentralization II

By : RAFAEL HERNANDEZ COLON

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Governmental authority over the geography of the Commonwealth of Puerto Rico is allocated by our constitution to 78 municipalities and the central government. Our municipalities are the political units below the state and comprise not only individual cities or towns, but also extensive rural areas surrounding such cities or towns.

Decentralization, from central government to the municipalities, pursues two principal objectives: to engage citizens in the political process by bringing governmental decision-making closer to them and to make government more efficient by transferring authority to the lowest operative level. In decentralization, the most important powers that the Law for Autonomous Municipalities (approved during my last term in office) devolves upon our municipalities in an orderly fashion are the powers over land use and planning.

Under the Law for Autonomous Municipalities, land use and planning are carried out by *Planes de Ordenacion Territorial*, which are master plans for the integral development of the municipality undertaken through zoning all the territory under the jurisdiction of the municipality. This includes all urban and rural lands within the territorial limits of the municipality. It also includes a program of public works that will provide within an eight-year time frame the infrastructure necessary to make viable the land uses defined through the zoning process.

This type of zoning and planning was never carried out by the Planning Board for any municipality in Puerto Rico. First of all, because the board never zoned as part of an integral municipal-development plan the entire urban and rural land of any municipality. Second, because it never provided a program of public projects that central-government agencies were legally bound to execute over a certain period to provide the infrastructure necessary for the land uses determined in the zoning plans that it had approved.

This deficiency in our planning is the principal cause of the urban sprawl that has so deteriorated the quality of life in Puerto Rico. In this column, I will explain the objectives of the *Planes de Ordenacion*, the process by which they are adopted, and how they contain sprawl.

The *Planes de Ordenacion* are the work of municipal officials, citizens through citizen boards and public hearings, the municipal Legislature, central-government agencies, the Planning Board, and the governor of Puerto Rico. The initiative to undertake them and carry them through to adoption rests with the municipality. It isn't required to do so; it is authorized to do so if it desires.

So far (the law was approved in 1991), Caguas, Cabo Rojo, Carolina, Bayamon, Guaynabo, Cidra, Vieques, San German, San Sebastian, Morovis, Sabana Grande, Canovanas, Aguadilla, and Ponce have in place *Planes de Ordenacion Territorial*; 17 other municipalities are in the final stages of approving these plans; 23 others have completed the first stage; 17 are beginning the process; and seven have shown no interest.

These plans must be compatible with the central government's islandwide and regional plans and policies as well as with those of adjoining municipalities. They are much more than zoning plans. They must integrate zoning with strategies for the economic, social, and environmental development of the municipality.

The plans must optimize intensive land use; stimulate a mixture of uses and pedestrian accesses; strengthen the economic, social, and physical structure of each ward or urbanization; equip them with the necessary services; protect artistic, historical, and archaeological values; stimulate the vitality of city centers; promote the integral development of suburbs; provide for mass transportation; foster green areas; and encourage the conservation of rural areas and the protection of ecological systems.

New developments must be integrated into the existing urban context, providing continuity to the urban layout and to the principal avenues. They must also provide for mixed uses to reduce dependency on automobiles and stimulate pedestrian accesses and integration with the strategies for the economic, social, and environmental development of the municipality.

There are three types of *Planes de Ordenacion*: *Plan Territorial*, *Plan de Ensanche*, and *Plan de Area*. The first is the basic and most important one, for it covers the whole territory—urban and rural—of the municipality. The second provides for new developments, and the third provides special regulations for areas of special interest such as Old San Juan and Santurce. All city centers in Puerto Rico must have a *Plan de Area* for which there are quite generous incentives for the construction of new buildings and the rehabilitation of existing structures.

These incentives, for city centers under Law 212 of Aug. 29, 2002, include a tax credit of 75% to 100% on the investments for building or rehabilitation against personal or corporate income taxes. The law allows a 100% tax credit to financial institutions for investments in these areas. These incentives pursue the objective not only of revitalizing city centers but also of containing urban sprawl by making housing and commercial developments in city centers economically attractive.

The *Plan Territorial* is the legal instrument through which the whole territory of the municipality is organized and its integral development programmed within a time frame of eight years, at the end of which the plan must be completely revised. One of its functions is to divide the totality of the territory of the municipality into three basic categories: urban soil, urbanizable soil, and rural soil. This classification provides for land uses and appropriate structures. The amount of land classified as urbanizable is determined by the demand for existing urban soil, and its availability is made possible through a *Programa de Ensanche*.

To protect the natural environment and scenery, land classified as rural is protected from urban development. The land's uses are accordingly restricted—allowing only structure for each 25 acres—to agriculture, ecotourism, and conservation.

To produce the *Planes de Ordenacion*, the municipality must set up a planning office (*Oficina de Ordenacion*) with trained professionals. This office assumes the functions of the Planning Board once the plans have been adopted. The municipality must also create a local permits office that assumes the functions of the Regulations & Permits Administration.

The planning office initiates the process. Before the *Plan Territorial* is presented to the community at large, the draft goes to citizen boards where individuals from the several communities of the municipality provide their input on the determinations required to formulate the initial proposal. After the plan is approved, these boards become the watchdogs for their communities to ensure the plan is properly executed and complied with.

A most important part of the *Plan Territorial* is its program, which must include the different infrastructure projects—roads, sewers, electricity, water, etc.—that will be carried out by government agencies during the duration of the plan. This implements the policy behind the law that infrastructure, not land speculation, must guide development. This policy is vital to combating urban sprawl. The program must also provide for social-interest housing developments, the management of rural areas and natural resources, and the development of urbanizable land into urban land.

The program is arrived at by negotiation between the municipality and the appropriate government agencies. These negotiations determine the nature and extent of the project, the sum necessary to carry it out, and the dates of commencement and estimated completion. Once the governor signs the plan, the agencies are obligated by law to carry out the projects.

Given that the *Planes de Ordenacion* provide for a programmed development, and the virtual impossibility of changing the classification of land throughout the duration of the plan, the plan must be revised every eight years to adjust it to current needs. In this manner, municipal planning does away with the *consulta de ubicacion* by which the Planning Board adjusts its zoning to the speculative needs of developers. Municipal planning thus empowers the citizens of the municipalities and presents a unique opportunity for containing urban sprawl caused by land speculation and the haphazard development of infrastructure.

But what about regional planning and the small municipalities? I will discuss this in my next column, in which I will explain a most promising development in regional planning involving the private sector.