Fifty years after the failed "Sullo" reform: The strange defeat of public urbanism

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Giving urban development and real estate valorization a better and more stable horizon of socio-economic and urban–settlement effectiveness (which it could not be guaranteed solely by private initiative), was the objective of planning law that passed in Italy in August of 1942, after more than thirty years of debates and inconclusive attempts of legislative processes failed in progress.

The approval of the law was probably facilitated by the weakening in that period of the previous resistance of the social block of land owners and real estate promoters to any restriction of the freedom of their initiative, precisely because the law was passed in a time when the events of the ongoing war made the prospects of investment in real estate look a remote and uncertain eventuality.

So, the law established the concept that the task of conforming land to the uses of urban settlement should go through the municipal approval of plans drawn up by the rising figure of urban planners, supported by the Secretary of the National Fascist Union of Architects and founder of INU (National Institute of Urbanism), Alberto Calza Bini[1].

It is known that the law, as expected, had no practical application during the war[2], but not even in the immediate post-war period. Perhaps it appeared a faded legacy of a political and institutional order disappeared and, anyway, because of the participatory mechanisms of its approval

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procedures (adoption, publication, comments, rebuttal, approval), whose times were incompatible with the prevailing needs of immediate reconstruction.
Therefore, municipalities quickly adapted themselves to continue with a more ancient and rooted practice: that of direct agreements with private owners (private transactions) based on their building proposals and in the absence of a planning vision that would put limits and directions to the locational criteria and to the quantitative definitions of settlements and design of building and public spaces.
Indeed, the municipalities that occasionally were to be equipped with a Master Plan under the law of 1865 (essentially the most relevant ones in demographic and territorial size) tried to find procedural tricks to stipulate agreements *in precario* to derogate from Master Plan prescriptions[3].
Under the impulse of the pressing needs of the uncontrollable recovery of economic and real estate development, the outcome was inevitably chaotic, and in this context it revived the disciplinary, cultural and political debate on the need to restart skills, instruments and institutional roles able to direct private initiative toward a goal of settling down structures of general and shared interest, which private sector would not have been able to pursue by itself.
The overall picture of those proposals should be considered in this horizon of the most active phase of the early center-left political agreement, which runs from 1962/1963 with Minister Sullo's bill, up to 1967/1968 with the approval of "Bridge" Law and its implementing decrees and then later, although in less cohesive form, with Bucalossi Act of 1977. With varying fortune in results and consistency in proposed tools and procedures, however, yet those proposals have built a "common sense" of the prevalence of public-led urban settlement, which is the core

foundation of modern urbanism in Italy and in Europe.
The bill presented in 1963 by the Minister of Public Works Fiorentino Sullo, in fact, proposed to adopt as a generalized procedure established by the Planning Law of 1942 for detailed plans in the event that the property would remain inactive in the face of the urban settlement proposed by the Detailed Plan of Implementation (*Piani Particolareggiati di Esecuzione, PPE*) approved by the City.
In this case, therefore, the Municipalities carried out the expropriation of the area at hand, drawing buildable sectors, identifying infrastructure networks and public areas and then reassigning the buildable areas with priority to the original landowners, including costs of public urban settlements (public areas, infrastructures, costs of projects, etc.). Buildable sectors were even assigned to anyone by public auction, in case original landowners had been reluctant to the final reassignment of the buildable sectors.
Then, the procedural path was essentially identical to the one he had implemented just in 1962 with the approval of Law n.167 for the formation of the Area Plans (*Piani di Zona, PdZ*) for Economic and Popular Buildings (*Edilizia Economica e Popolare EEP*), which - with subsequent amendments introduced by the Plan for Houses in 1971 - differ from PPEs only for the time of publication (halved to 15 days instead of 30), the duration of the implementation time (progressively dilated to 18 years, instead of 10) and the fact that the final recipients of the reassignment of the areas in sub-buildable sectors tend to be different from the original landowners, as it is highly unlikely that they had the characteristics of poverty prescribed to access EEPs.
The extension of PdZ was meant to cover from 40% to 70% of the estimated housing needs in a decade.
The implementation of PdZs was widespread by municipalities obliged to adopt them (i.e., municipalities

with over 50,000 inhabitants, or provincial capitals, or municipalities close to them or characterized by severe housing needs pressure) and other municipalities subjected to socio-demographic dynamics caused by the industrial development of economic reconstruction. However, it should be noted that if on the one hand that diffusion shows that the procedural mechanism of PPEs of Law 1150/42 was not - as it is usual to assume erroneously - inherently unworkable if the City Council was adequately encouraged by socially stronger and mobilizing objectives beyond the mere appropriateness of the settlement design, and was assisted financially by the State for initial costs, on the other hand that diffusion will highlight the inability of municipalities to locate PdZs on areas already identified as buildable in the Master Plan (*Piano Regolatore Generale*, *PRG*), where it would have not been possible to compress the expectation of land rent consolidated on market prices without triggering a social rebellion of landowner classes.
In fact, PdZs were almost all located in mostly agricultural and suburban areas (yet Law no. 167/1962 allowed it only as an exceptional case), not originally buidable in PRG, with special variants, motivated by satisfying the social expectations of the housing needs for disadvantaged classes.
The owners of land in these areas, just as they were not benefited as the owners of areas originally buildable in the Master Plan (PRG), initially tolerated with more resignation the expropriation at the values referred to the originally agricultural use[4].
As we have seen, in the condition of demographic and economic uncontrollable development of the sixties there was such a high social expectation on land rent by the owners of those areas, considered attractive target for building, that the conservative political forces protecting them were induced to consider as an intolerable

interference any public initiative of the municipalities in the processes of urban settlement driving to real estate development.
Landowners went so far as to motivate their endorsing the silent putsch attempts of that time, also fueled by the fear engendered by misleading and deliberately pursued misunderstanding between expropriation of undeveloped areas and dispossession of own homes.
Besides, in the Sullo bill, the choice to generalize initial expropriation proceedings by the municipality and reassign buildable sectors to real estate developers, in a pre-urbanization condition with urbanization costs, clearly focused on what the law of 1942 (in the version of the "spontaneous" implementation of EPP by the consortium of the properties) left out of focus, while implicitly suggesting it, even in a way that is not well-defined in time and manner: the free transfer of public areas.
The risk of limiting values of land rent for the original owners, in the initial phase of expropriation, added to the obligation to assume costs for public facilities and public areas by real estate developers, in the ending relocating procedure designed by Sullo bill, formed a lethal mixture that led the Christian Democrats to distance themselves from their own Minister and led to the failure of the bill.
This is partly what will happen again with the so-called "Bridge" Law n. 765 of 1967, when it will highlight that planning agreements annexed to the plans of subdivision of buildable areas (*Piani di lottizzazione*, *PdL*), submitted by land owners in the implementation of PRG, must contain a commitment to the free supply of the public areas, which also will be cause of heated disputes and legal proceedings.
But "Bridge"[5] Law of 1967 was placed downstream of the clamorous Agrigento landslide of 1966 (that is, an entire neighborhood of 200,000 cubic meters, badly stacked on the side of a hill) that symbolically materialized the

diseconomies of the failure of post-war planning in urban development, and then promoted an attitude of public opinion far less favorable to the claims of the block of land owners and real estate developers, enough to silence even the resistance of less progressive political forces.
"Bridge" Law of 1967, even without the public conformation of implementation plans by municipalities, however, forced them to make the negotiations with private parties at least under the drafting of a general settlement plan (PRG) and initially to charge a substantial part of the costs of settlements (then gradually eroded by the indulgent inertia of most municipalities to adapt its costs to inflation) to "agreements" with real estate developers in implementing plans (PdL).
Later, from 1977 to 2004[6], Bucalossi law prevented municipalities from financing their current expenditures with the revenues from costs of urbanization, thus limiting the pressure to sell off the territory in order to allocate the infrastructure costs to contingent financial needs.
However, it is true that the plans of subdivision of buildable areas (PdL) of private initiative, even if they comply with the Master Plan (PRG) for building indexes as well as for amount of public spaces and facilities, increasingly tended to conform to the native agricultural structure of the land, leaving the urban design as a residual and uncontrolled outcome.
From 1977 sporadically, since 1992 increasingly frantically, planning legislation has been shattered in a series of contingent and incoherent measures (Program Agreements, Territorial Pacts, District Contracts, Integrated Programmes of Intervention, Targeted plans for Columbus Games, Football World Cup, Jubilee, etc.) where, in the name of quick implementation and compliance with economic needs, it is permitted to public planning bodies the increasingly pervasive use of interventions offered

directly by private operators, derogating from any public purpose (as had happened from the period immediately after the war until 1967), boosted during the last decades by the financial-estate mechanism of production disposals induced by economic-productive globalization in countries with mature economies.

Therefore, after being at the center of great expectations and social demands from the sixties to the eighties, in recent decades town planning is not well reputed anymore and its place in the social collective expectation of a better future has been taken by ecological environmentalism or by planning rule liberalism aimed at stimulating entrepreneurial and family economic activity.

The risk is that this increasingly environmental sensitivity eventually becomes an illusory goal, dominated by economic neo-liberalism, today prevalent, that considers town planning rules, publicly identified and shared (i.e., the foundational thinking of modern urbanism), as an unaffordable luxury and promotes, instead, a substantial lack of confidence in the outcome of a long-term collective project produced by the application of rules on the relationship between building density and public spaces –so hardly acquired between 1967-1968 (“Bridge” Law and Decrees on public standards) and 1977 (first regional town planning laws of Lombardy, Piedmont, Emilia Romagna, Liguria, Tuscany, and finally Bucalossi Law on soils rules).

Accepting their progressive demolition under the promise of "smart", "green", “energy self-sufficient, "recyclable" buildings (in other words, the ideology of "smart cities"), in an unequal exchange between public liberism and private virtues, would yield to a single-thought attitude of privatism, which is a culpable resignation.

In this occurrence there is a perverse convergence between increased environmental sensitivities (savings of urbanized land, energy saving, plant screens, etc.) and neo-liberal

trends in the use of the city and the land, calling for a return to those nineteenth-century rules, like covered area and height (often liberalized in the name of allegedly small land use and modern function and image in high-rising buildings) abandoning as obsolete those of the twentieth century, based on density indices and availability of public spaces, toward the upcoming of sustainability criteria in the use of non-renewable resources.

Even the recent "Decreto Fare" (*Decree of Doing*), converted into law by a broad political alliance, for example, does not renounce to use the economic-productive crisis as a pretext to strike a further blow to the framework of minimal achievements gained hardly and not without residual contradictions between 1967 and 1977 (i.e., minimum public space availability of 18 square meters per inhabitant in PRG and PPE; distance between buildings equal to the height of the highest one with a minimum of 10 meters between windowed walls; land density up to 7 cubic meters per square meter if the building permit is delivered without an urban plan or with an urban plan not providing the implementation of all public areas prescribed). In fact, although the Decree surreptitiously does not repeal the contents of the previous Ministerial Decree no. 1444/1968, it allows Italian regions to introduce legislation deviating from it, without any limit (while that limit is defined as minimum and mandatory by the same 1968 Decree!)

Do we need a new Agrigento landslide (maybe not on buildings, but on ecological, environmental, economic resources, this time) to make us aware of the road we came back to walk?

[1] It is to be noted the purely "corporate" spirit (in literal sense, that is referral to the aid to collective interest provided by the technical-disciplinary corporation) that permeates the law of 1942, which only defines the procedural paths. Instead, disciplinary contents will be implemented by the knowledge of the technical-disciplinary corporation. A task to which the corporation will prove to be largely inadequate, and which will motivate the need to establish maximum limits to building indices and minimum limits of areas for public facilities per inhabitant by law (in the decrees of 1968, in accordance to "Bridge" Law of 1967).

[2] Nonetheless, the Ministry of Public Work., even in the dramatic situations occurred between September 1942 and March 1943, did subsequently elaborate the Implementation Rules –then lost in a dusty basement where, in the mid-nineties, a shrewd researcher found them (Massaretti, 1995).

[3] The most well known is the case of so-called "Ambrosian Rite" practiced at that time by the City of Milan, which patron saint is Ambrose.

[4] Compensation value set by Law n. 865/71 between the agricultural value and 10 times that value, depending on areas contained or not in the perimeter already urbanized, as well as on the degree of urbanization previously reached. Subsequent judgments of the Constitutional Court, following judicial remedies of the dispossessed, led the legislature to bring back the values of the allowance first to a policy similar to that of the Law of Naples of year1885 (average between the market value and 10 times the cadastral value) and finally, the market value, as already provided for by Law n. 2349/1865 on expropriation for public utility. Actually Constitutional Court judgment n. 384/2007 obliges the market value compensation for expropriation for generic public interest (roads, schools, public buildings , etc.). While leaving open the possibility of reduced values for purposes of social utility; i.e. for the PdZ of EEP, whose provisions, however, in the meantime are expiring and are rarely updated (despite it is persisting the obligation to cover 40-70% of the housing needs of ten years) and, perhaps, for the

plans for productive interventions (*Piani per Interventi Produttivi*, *PIP*, established by Law n. 865/71), that, however, are always less used because of the risk of being sanctioned by European Union as undue State aid.

[5] The law was called "bridge" because of its character of urgent and partial measures bridging the gap toward a comprehensive reform of the subject.

[6] The obligation to allocate the revenue of urbanization charges in a blocked account to build infrastructures was removed from the joint action initially of the Minister for Public Administration Bassanini (second Amato's center-left government), who did not move the provisions of art.12 of the Bucalossi Law of 1977 in the Unified Text of Housing of 2001, and then by the Finance Minister Tremonti (Berlusconi's center-right government). In fact, when asked by the Association of municipal Treasuries in 2004, Mr. Tremonti endorsed the fact that the lack of transfer of the rule constituted its repeal. Subsequently, a bottomless pit of new urbanizations as a current financial resource was then opened.

References

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