



TENANT LAWS AND UNESCO DESIGNATION IN CASCO VIEJO

A segment from:

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The Historic District of Casco Viejo (also known as Casco Antiguo) was first legally recognized as such in Law 91 of 1976, which delineated the boundaries of the District and provided property tax exemptions. This law was updated in 1997 to provide the framework for the District's inscription as a UNESCO World Heritage Site (UNDP, 2009). The creation of the Office of Casco Antiguo (OCA) in 1998 was a direct result of this designation, since it required the creation of a multi-disciplinary planning and oversight institution (UNDP, 2009). However, OCA has always been more of a research office, with no legal power. Instead, it advises the National Directorate of Historic Heritage which is part of National Institute of Culture (INAC), and which actually grants the permits for structural restoration. Law 9 of 1997 expanded the boundary of the district into Santa Ana and outlined new fiscal and financial incentives. Its title made its purpose clear: "by which a special incentives regimen is established for the restoration and valorization of the Historic Monumental Cluster of Casco Antiguan de Panama". By providing a legal path for vacating buildings, it aimed to facilitate private investment in Casco Viejo. This law and subsequent amendments (Law 4, 2002) recognized the claim of long-term residents of occupied buildings in Casco Viejo, but in practice made it very difficult to honor that claim, complicating the process for both residents and property owners.

According to the director of the Office of Casco Antiguo from 2004 to 2009 (Espino, 2007), there were several shortcomings. First, enforcement was essentially non-existent. Many of the vacated properties were used for speculation and not redeveloped for many years, despite a clause requiring restoration works to start within two years of evictions. By 2004, 15% of the historic buildings were vacant and undeveloped. Additionally, the Ministry of Housing, which according to the law was responsible for administering eviction permits as well as performing a census of the affected families to establish their compensation, failed to perform its duties in a timely manner. The process was too costly and complicated for developers to follow, and the government was not inclined to be involved in mass evictions for political reasons. It was easier for developers to negotiate with tenants outside the law, directly or through lawyers. Furthermore, because of the informal condition of most of the residents, very few families were technically entitled to compensation according to the law. Still, the very mention of the right to compensation in the law gave weight to the residents' claim in these informal negotiations where neither party was following the regulations (Espino, 2007).

However, a new amendment passed at the end of 2013, curtailed the informal residents' claim to compensation by specifying that only those with a rental contract, proof of payment, or other document showing legal occupation were entitled to compensation, and among those, only persons who: "1. Are currently living, for reasons of social interest, in the Historic District of Casco Antiguo. 2. Have signed rental contracts before

the year 2008. 3. Have paid a fee according to the rental contract no greater than 75.00 Balboas (1 Panamanian Balboa = 1 US dollar) a month. 4. Are currently not considered intruders or squatters.” (Law, 2013, Chapter V, Article 26). For those who qualify, the compensation amount was increased to 5,000 Balboas for those with 5 to 10 years of residence to 12,000 for those with more than 40 years of residence. As with previous decrees, developers could receive a fiscal reimbursement for these payments.

Rather than facilitate the process by better defining the regulations governing it, this amendment had the opposite effect. By eliminating the ambiguity that had enabled informal negotiations in the past, and making the new qualification rules almost impossible to be fulfilled, forced eviction became the only option (A. Sucre, personal communication, August 26, 2015). To make matters worse, new regulations about the institutions responsible for approving and administering eviction permits created a bureaucratic knot and a legal void, with no agency willing to hear most of the legal cases in Casco Antiguo (A. Sucre, personal communication, August 26, 2015). Even if those permits are granted, the local magistrate responsible for actually carrying out the evictions has not been issuing eviction dates because it is politically disadvantageous (A. Sucre, personal communication, August 26, 2015).

Without viable public housing options[1], this tense situation has reached a critical point. By the summer of 2015, Casco Viejo residents were mobilizing, and all evictions were frozen. In their 2015 Financial Report, one of the largest Real Estate Developers in

Casco Viejo called the relocation of families “the main challenge that private investors have had to overcome in carrying projects forward,” and that by halting the eviction process, government administrations were “attacking legal certainty and the property rights of property owners” (2015 Asamblea General de Accionistas, 2015, p. 17).

Still, there is a genuine concern among developers, the public sector agencies, and new residents in avoiding the complete “musealization and touristification” (Janoschka, Sequera, & Salinas, 2014, p. 1248) that has accompanied UNESCO World Heritage designations in many other Latin American Cities. According to the Deputy Director of the Cultural Heritage Directorate in Panama (K. Osorio, personal communication, August 26, 2015), when UNESCO expanded its definition of World Heritage to include intangible as well as tangible aspects, it opened up a debate about change over time, and what constitutes authenticity in a dynamic site such as a city center. In her view, World Heritage is not only about the building or structure itself, but about the people that built it and the context or circumstances at that particular time that caused them to build it in that way. This context includes the process by which it was built, and also, arguably, how it changes over time.

While the purpose of the UNESCO World Heritage List is to help preserve sites that are believed to be of value to humanity, protecting them from change is particularly complex in urban sites, both practically and because of a “need to get away from thinking of cities as monuments and... to see cities as first and foremost places where

people live” (Pendlebury, Short, & While, 2009, p. 354). UNESCO has been grappling with the meaning of “authenticity”, which is a criterion by which sites are admitted on the list. Deciding what is authentic and what is not is a struggle for legitimacy that carries political and social weight (Alberts & Hazen, 2010). The “layers of development and habitation” that make up cities, and their “in-built assumption of dynamism, redevelopment and change” (Pendlebury et al., 2009, pp. 350–351) make it difficult to define what is authentic. In Casco Viejo and other Latin American city centers where redevelopment has been catalyzed by the UNESCO designation (Janoschka et al., 2014), where that line is drawn can have important impacts on the lives of residents.

Anti-eviction Demonstration:

Sources: Moradores movement facebook page (left), Author (right)



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[1] By law, The National Mortgage Bank-owned lots in Casco Viejo are to be converted to social housing. The previous administration had not taken steps towards this commitment, but the prospects for the new administration are more positive, with two large parcels recently identified as potential projects (Saldaña, 2014). Currently, other public social housing options are between 9 and 16.5 miles away from Casco Viejo.