
Private help for a public problem

ALEJANDRO ESPINOSA

In 1995 obtaining a building permit in Colombia's capital Bogota was a burdensome and exhausting process. Construction companies had to wait 1,080 days, on average, to obtain clearances from the city's Planning Office.¹ To put this in context, out of 181 economies now examined in *Doing Business 2009*, only one, Haiti, had construction procedures that took more than 1,000 days.

Bogota's Planning Office was understaffed and unable to keep up with demand. This made it very difficult for construction professionals to develop their projects. The only way to expedite the process was through personal connections in the municipality—an unfair practice that's inherently prone to corruption.

Colombia introduced a new system in 1995 that moved the administration of building permits out of the state-run Planning Office and into the private domain. Private professionals called Urban Curators (*Curadores Urbanos*) became responsible for the complete and timely review of building permit applications. By 1996, the system of private Urban Curators was up and running. Additional legislation in 1997, 1998 and 2006 further defined the roles and responsibilities of Urban Curators. Fourteen years after its initial implementation, the system's impact on the construction process is palpable. Those improvements include shorter waits for construction permits and a city Planning Office that has time to focus on urban improvements—such as new parks, sidewalks and mass transit systems.

Come back next week

Before 1995, building in Bogota was a daunting task. A crowded, underequipped and understaffed Planning Office did not have the means to process permits at a reasonable pace. "I worked at the Planning Office when they issued building permits," says Nohora Cortés Cuellar. "It was very difficult to work there; we did not have the proper tools." Cortés Cuellar is currently Urban Curator number IV in Bogota—there are five (V) in the city.

Professionals waited for hours in long lines to apply for a permit. After that, they had to follow up constantly to track their application's status. "Come back next week," was the common refrain. Waiting 1,081 days—approximately 3 years—for a building permit was an economic disaster. Projects could not be financed properly; customers did not want to wait that long. The only practical solution from a business perspective was to contact an insider for help.

Small builders were particularly disadvantaged, since they typically lacked the clout to push for their projects. Only big companies were granted licenses within a reasonable amount of time. “It was impossible to get things done without a contact within the municipality,” says a local architect about that time.

“The reform depoliticized the process,” says Juan Martín Caicedo Ferrer, former congressman and former mayor of Bogota who led the implementation of the construction reform. Construction reforms that cut out excessive regulation and improve infrastructure can also help the broader economy because the construction sector directly and indirectly affects other economic activities—such as employment and industrial output.

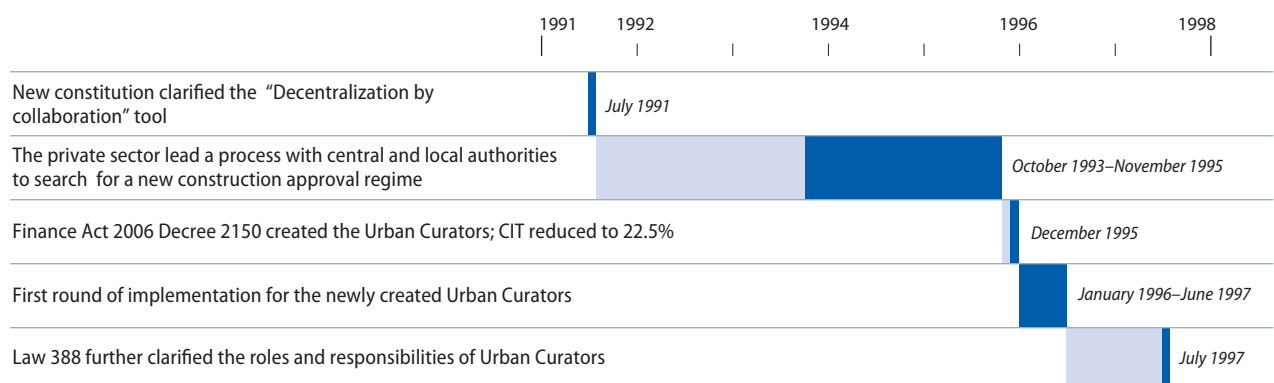
The will to change

Given the problems and delays, Colombia’s central government, Bogota’s city government and the private sector were all very interested in reform. Cooperation by Bogota’s municipal government was particularly important. Often, local authorities are reluctant to give up power to a national agenda. However, Bogota’s case was different for 3 reasons. First, the local government realized that its Planning Office was not equipped to handle all the demand and the only way to remedy this situation was to invest significant resources. Second, the local government wanted its Planning Office to be more involved with the broader urban design of the city and less involved with administering and issuing permits. Third, the local government knew that long administrative delays translated into lost tax revenues for the city.

Add it all up and municipal budget constraints were a key driver of reform. The city simply did not have the resources to hire new staff, upgrade its offices or take

FIGURE 1
Timeline for dealing with construction permits reform in Colombia

Source: Doing Business database.



other measures to improve the building permitting process. Private help for this public problem was just the ticket.

Decentralization by collaboration

Four years before 1995's construction reform, Colombia adopted a new constitution that clarified the principle of "decentralization by collaboration" (*descentralización por colaboración*).² As a result, policymakers could more easily shift some responsibilities from the public sector to the private sector, if public and private interests aligned. Basically, Colombia's previous constitution of 1886 lacked any references to public duties being carried out by private institutions even though private notaries and Chambers of Commerce performed public duties such as civil weddings, deed registrations and business registrations. The clarifications in Colombia's 1991 constitution thus gave its government a green light to move more into the private realm.

In 1995 Colombia became the first country in all of Latin America to privatize its building-permit review process. It was a bold move carrying many risks, but Colombia's public and private stakeholders knew that the situation was desperate and called for a far-reaching and innovative solution.³ Colombia's privately run Chambers of Commerce and notaries provided the government with home-grown models for its seemingly radical idea.

Private leadership

The Colombian Chamber of Construction (known as *CAMACOL*) had long lobbied for improvements in the administration of construction regulations. *CAMACOL*'s Mauricio Dever and Alberto Vasquez Restrepo were two of the main architects of the privatization solution. "We [at *CAMACOL*] were the key players who convinced the government to use the example of the notaries to change things," says Beatriz Uribe, president of *CAMACOL*. Caicedo Ferrer, the aforementioned ex-mayor of Bogota and ex-congressman during the reform period, was also crucial in the implementation process by eventually elevating the concept from a decree to law.

First, Decree 2150 of 1995 legally established the Urban Curator as the administrator of the building permit process. Urban Curators set up shop and were in full operation by January 2, 1996. Given the initial time constraints to implement the reform, Bogota's mayor first appointed 5 ad-hoc Urban Curators who were architects or engineers with construction experience. Soon after, a more transparent, merit-based system was established that still is in force today. Potential curators now pass through a selection process that includes exams and interviews with experts from the public and private sectors.

Collaboration by local and national authorities and the private sector was key to the creation and implementation of the new system. Also crucial was CAMACOL's leadership in facilitating communication and fostering cooperation among all parties involved.

Oversight and responsibilities

Urban Curators are responsible for issuing building permits by verifying that builders comply with the city's regulations. To this end, Urban Curators must create a team of field experts—namely, construction engineers, architects and lawyers. All members of the teams have to be certified by an accredited professional association. In Colombia qualified professional associations were already in place. Urban Curators' salaries and expenses are not paid by the government. Instead, they are funded by the fees collected when issuing building permits.⁴

Law 388 of 1997, Decree 1052 of 1998 and Decree 564 of 2006 further clarified the roles and responsibilities of Urban Curators. The growing body of legislation also set disciplinary and liability regulations. According to Colombian law, Urban Curators are subject to public oversight because they perform public services. Curators must carry an insurance policy to cover any damages that their decisions could cause. If negligence or fraud can be proven, Urban Curators can even end up in jail.

Disciplinary and fiscal controls are mainly handled by Colombia's *Procuraduria* and *Contraloria*—2 agencies that oversee public servants and private citizens performing public services. Meanwhile, urban regulations are still the ultimate responsibility of the local Planning Office. If the public or local authorities find that a decision made by an Urban Curator is against the law or against any urban regulation, the Planning Office has the right to revoke a construction permit. This oversight helps ensure that public interests are preserved and upheld.

Impact of the reform

Response to the new regime from construction professionals has been positive so far. "The Curators have a very professional staff that interacts in an efficient way with me," says Carlos Monroy, a local architect dealing with many construction projects. "I don't want to deal with the public offices again," he adds.

Before the reform, construction companies dealing with the Planning Office rarely interacted with the actual authorities reviewing their cases. If documents were missing, or if something needed to be corrected, the wait could be daunting. In contrast, builders can now submit documents and then follow up on their progress online. There is a case management system to keep customers up-to-

date on the status of their permit. Furthermore, since customers in Bogota can bring their business to any one of the 5 offices providing Curators (known as *Curadorías*), competition tends to generate innovative, quality services.

The city government's response has been positive, too. "We do not want to go back to the 1995 situation where the Planning Office was in charge of the permit issuance," says a functionary in the mayor's office. In fact, the Planning Office now focuses on its intended mission of urban planning. As a result, public parks have been created, sidewalks constructed and a successful mass transit system based on omnibuses was installed.

The numbers tell a positive story, too. In 1996 11.3 million square meters for construction were approved. In 2007, after the advent of the *Curadorias*, this number had climbed to 19.2 million square meters—70% more.⁵ At the same time, the construction sector's share of the country's gross domestic product (GDP) was 6% in 1996. It had grown to 7% by 2007.⁶ But the most dramatic numbers are seen in the time saved. In 1995, obtaining a building permit took an average 1,080 days—or, approximately 3 years. By 2008, this wait dropped to just 63 days—less than 1/17th of the old wait. The average time savings: about 2 years and 9 and ½ months.

Room for improvement

Alongside the benefits mentioned above, there remains room for improvement. For example, the introduction of Urban Curators was well intentioned but abrupt. At the end of 1995, all construction permits were issued by the Planning Office. By January 2, 1996, all construction permits were issued by the new private players. The quick change confused some applicants who were not adequately prepared for the new system. Furthermore, some new Urban Curators were not prepared themselves. Future reformers should consider a more aggressive communications campaign and a pilot program to train the new Urban Curators.

Another area for improvement is government oversight. Urban Curators are subject to government oversight because they perform a public service. The problem is that the law does not specify which part of the government is responsible for it. Curators complain that multiple agencies (national and local) ask for the same kind of documents and the same information. "At least 4 agencies have come and asked me why I rejected the same permit," says Juan Reinaldo Suarez, Urban Curator number 1 in Bogota. "I am very busy and should not answer the same question 4 times," he adds. Furthermore, government regulators may not be sure what to ask Urban Curators because are not trained to deal specifically with construction.

Redundant oversight is not only unpleasant for Urban Curators; it is also confusing for the public. For the sake of transparency and efficiency, the public should know exactly where to go with complaints. Therefore, a better articulated set of rules should be enacted for Urban Curators, as it was for notaries. Colombia's Notaries and Registry Superintendence (*Superintendencia de Notariado y Registro*) is a centralized oversight system that could be used as a model here.

To improve the checks and balances of the system, revising fees schedules should also be considered. Urban Curators currently set their fees according to the size and complexity of a project, so bigger projects pay larger fees. As a result, some builders complain that smaller—less lucrative—projects don't get enough attention. Policymakers could help by introducing incentives to help boost smaller projects.

Great tool (handle with care)

Privatization is not always the answer. First of all, a thoroughly professional and independent private sector is necessary for this type of reform to work. Professional associations for engineers and/or architects should certify and evaluate those in charge of issuing building permits. In addition, a robust insurance system and a comprehensive oversight plan should be present. Careful coordination and communication between the public and private sectors is also needed for a smooth implementation. And if the public sector is doing a good job of issuing permits, there is no need to privatize to fix something that is not broken.

But, when the conditions call for it, public authorities can and should ask for private assistance to ease the burden of administrative procedures. If well designed and supported, the privatization of public services can improve their provision without draining public resources. In Bogota, moving the issuance of building permits from the Planning Office to private individuals improved the timeliness of the service without compromising quality and security standards. It also freed up the Planning Office to focus on its original task of urban planning. Some aspects of the reform can and should be improved, but it is clear that the Urban Curators have had a very positive impact in the construction sector.

Notes

1. Source: *Cámara Colombiana de la Construcción (CAMACOL)*. This was before *Doing Business* surveys were launched in 2003.
2. See Article 210 in the 1991 constitution.
3. Some countries in Europe (like the Czech Republic, England and Wales) have implemented similar reforms. See Geginat and Malinska, *Creating a New Profession from Scratch*.

4. Note that builders still pay a tax to the municipality (called the urban delineation tax), which is different from the fee they pay the Urban Curators to process a permit.
5. Source: *Departamento Nacional de Estadísticas (DANE)* www.dane.gov.co.
6. World Development Indicators (WDI), World Bank.