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Cover Page Footnote

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ESSAY

**TAMALES & BOLLOS—PATRIMONIO DE LA HUMANIDAD /
WORLD HERITAGE: CHALLENGES FACED BY RESTORA-
TION EFFORTS IN PANAMA CITY’S SAN FELIPE HISTORIC
DISTRICT**

*Daniel Suman**

Introduction

On a street corner in Panama City’s historic San Felipe neighborhood (and World Heritage Site) in December 2007, a vendor was selling tamales and bollos (traditional corn meal wraps). Few foods could be more typically Panamanian than these that were being sold in Panama City’s oldest neighborhood. The vendor cries “bollos—patrimonio de la humanidad” or “bollos—“patrimony of humanity.” This vendor represents the dichotomy evident in San Felipe today. For the past 50 years, San Felipe has been a “popular” neighborhood with a majority low income residents, active street life, and cultural and social diversity. Moreover, the Presidential Palace, the Ministry of Government and Justice, and the Ministry of Foreign Affairs also made San Felipe one important node of political activity of the Nation. A two-decade-long movement to protect the architectural heritage of the neighborhood culminated in 1997 with designation of San Felipe as a United Nations Educational, Scientific, and Cultural Organization (UNESCO) World Heritage Site, as specified by the 1972 World

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Heritage Convention.¹ Historic preservation legislation, the UNESCO declaration, and new legislation promoting restoration through economical and fiscal incentives has jump-started a dramatic process of restoration. The result has been increasing restoration activity with much more on the horizon. At the same time, the majority of the former residents (both renters and squatters) have been displaced by wealthier new owners.² Today, the price per square meter of restored residences in the historic district is among the highest in Panama City.³ The danger is that the historic neighborhood of San Felipe in the near future may contain many newly restored buildings occupied by high income (and foreign) residents. Many of these new residents will only spend a fraction of the year in Panama. Chic boutique restaurants will continue to multiply, and the deli will replace the Chinese-owned corner grocery. As a result, the typical Panamanian street life and culture may become increasingly absent, and social diversity may become a distant memory.

This manuscript describes the San Felipe neighborhood and its historic significance to Panama City and its urban space, details the legislation adopted to protect the architectural values of the neighborhood, and discusses some of the challenges that this effort faces.

¹ See generally UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, Nov. 16, 1972, 11 INT'L LEGAL MATERIALS 1358, available at <http://whc.unesco.org/archive/convention-en.pdf> (last visited Sept. 10, 2008).

² Angela de Picardi, *Pasado y Presente se Funden en un Solo Valor: Lo Humano*, PATRIMONIO HUMANO: ESPACIO ARTE, OFICINA DEL CASCO ANTIGUO CIUDAD DE PANAMÁ, 2007, at 10.

³ EDUARDO TEJEIRA DAVIS, *Aspectos Sociales y Económicos (Social and Economic Aspects)*, in CIUDAD: EL CASCO ANTIGUO DE LA CIUDAD DE PANAMÁ (CITY: PANAMA CITY'S OLD QUARTER) 58, 76 (Oficina del Casco Antiguo, 2001).

I. A History of Spatial and Social Changes in Panama City and the Casco Antiguo

Panamá Viejo (Old Panama) was the first Spanish settlement located on the Pacific coast.⁴ It was founded in 1519 by the Spanish conquistador Pedrarias Dávila and served as an important trade and communications link between Spain and its colony in Peru.⁵ The trans-isthmian route passed from Panama on the Pacific to Nombre de Dios and later Portobelo on the Caribbean.⁶ Major natural disasters struck the town: earthquakes in 1541 and 1641 and fires in 1539, 1563, and 1644.⁷ Abandonment occurred in 1671 after pirate Henry Morgan sacked and burned the city.⁸ The low-lying, swampy site provided no natural defenses from attack and no natural port.⁹

Consequently, the Spanish moved their city to a site about 7.5 km to the southwest on a more easily defended peninsula on January 21, 1673.¹⁰ They constructed fortress walls to protect their new city from possible attack from the

⁴ *World Heritage List: Panamá (Panamá)*, ICOMOS, No. 790 at 91 (1997),

http://whc.unesco.org/archive/advisory_body_evaluation/790bis.pdf.

⁵ EDUARDO TEJEIRA DAVIS, *Historia Concisa del Casco Antiguo de Panamá: A Concise History of Panama City's Old Quarter*, in CIUDAD: EL CASCO ANTIGUO DE LA CIUDAD DE PANAMÁ (CITY: PANAMA CITY'S OLD QUARTER) 24, 26, 30-31 (Oficina del Casco Antiguo, 2001).

⁶ *Id.* at 24, 31.

⁷ Rebeca H. Sandoya, *El Crecimiento Espacial y Demográfico de la Ciudad de Panamá*, in GEOGRAFÍA DE PANAMÁ (Omar Jaén Suárez ed., 1985) at 404-20, 411.

⁸ SHOSHANNA LEVY & EFRAÍN GÓMEZ, *EL CASCO ANTIGUO: THE OLD QUARTER* 12 (1999); *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 91.

⁹ TEJEIRA DAVIS, *supra* note 5, at 24, 28.

¹⁰ Patricia Pizzurno, *Un Nuevo Recorrido por el Centro Histórico*, 434 *La Prensa - Talingo*, 7, 8 (Feb. 17, 2002), 8; Levy & Gómez, *supra* note 8, at 12; Sandoya, *supra* note 7, at 411; Tejeira Davis, *supra* note 5, at 24, 28.

sea, as well as a wall across the peninsula to protect from land attack.¹¹ The walls enclosed a 16 ha area.¹² The walls had an additional function; they separated the social and economic elite who lived inside the walled city from the servants and lower classes who resided outside the walls.¹³ At this time, the city continued to administer Spanish commerce in the New World.¹⁴

However, before the collapse of the Spanish Empire in 1820, Panama had already lost its importance, as shipments of Peruvian gold began to pass to Spain via the southern route of the Río de la Plata instead of the northern route through Panama.¹⁵ Additionally, disastrous fires destroyed major parts of the settlement in 1737, 1756, and 1781.¹⁶ The plight of San Felipe changed following the collapse of the Spanish Empire and independence from Spain (as a department of Colombia) in 1821.¹⁷

Panama City's growth continued sporadically in the 19th Century due to external factors, such as the 1848 discovery of gold in California.¹⁸ Many prospective miners preferred to travel from the East Coast of the United States to California by sea via Panama instead of traveling by train across the continental United States.¹⁹ To meet this demand, a consortium built the trans-isthmian railroad from

¹¹ TEJEIRA DAVIS, *supra* note 5, at 24, 28-29. See generally Eduardo Tejeira Davis, *La Traza y las Murallas a lo Largo del Tiempo/The Layout and the Walls: Over Time*, in CIUDAD: EL CASCO ANTIGUO DE LA CIUDAD DE PANAMA (CITY: PANAMA CITY'S OLD QUARTER) 80, 87 (Oficina del Casco Antiguo, 2001).

¹² Sandoya, *supra* note 7, at 411.

¹³ Pizzurno, *supra* note 10, at 9; Sandoya, *supra* note 7, at 412.

¹⁴ Pizzurno, *supra* note 10, at 8; TEJEIRA DAVIS, *supra* note 5, at 24, 31.

¹⁵ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 91.

¹⁶ TEJEIRA DAVIS, *supra* note 5, at 24, 33.

¹⁷ Pizzurno, *supra* note 10, at 8; TEJEIRA DAVIS, *supra* note 5, at 24, 31.

¹⁸ ERNESTO CASTILLERO, *HISTORIA DE PANAMÁ* 95 (1962); EDUARDO TEJEIRA DAVIS, *PANAMÁ: GUÍA DE ARQUITECTURA Y PAISAJE: AN ARCHITECTURAL AND LANDSCAPE GUIDE* 118 (Panamá – Sevilla 2007).

¹⁹ TEJEIRA DAVIS, *supra* note 18, at 118.

1850 to 1855.²⁰ The Pacific terminus of the railroad was located about one km from San Felipe.²¹

Some of San Felipe's most defining moments involved attempts to construct the Panama Canal. In 1878, a French company, under the direction of Ferdinand de Lesseps, obtained a concession from the Colombian government for the purpose of building a trans-oceanic canal.²² The headquarters of the French canal company were located on the main square in San Felipe near the Cathedral.²³ Faced with numerous financial, technical, and public health problems, the French abandoned their canal dreams in 1889.²⁴ However, French influence on San Felipe architectural styles remains today.²⁵

A possible trans-isthmian canal remained Panama's principal potential.²⁶ In 1903, Colombia rejected a proposed treaty with the United States regarding an inter-oceanic canal.²⁷ As a result, the United States supported Panamanian nationalists who declared independence from

²⁰ PANAMÁ HOY: RETRATO DE LA NACIÓN 93 (KENNETH JONES ED., FOCUS PUBLICATION 2002); Pizzurno, *supra* note 10, at 8; TEJEIRA DAVIS, *supra* note 5, at 24, 36.

²¹ CASTILLERO, *supra* note 18, at 167; TEJEIRA DAVIS, *supra* note 5, at 24, 42, 47.

²² PANAMÁ HOY, *supra* note 20, at 92-93; WALTER LAFEBER, THE PANAMA CANAL: THE CRISIS IN HISTORICAL PERSPECTIVE 13 (New York, 1978).

²³ Reinier Rodríguez Ferguson, *Casco Antiguo: Su Arquitectura*, PATRIMONIO HUMANO: ESPACIO ARTE, OFICINA DEL CASCO ANTIGUO, CIUDAD DE PANAMÁ, 2007, at 22, 25; TEJEIRA DAVIS, *supra* note 18, at 222.

²⁴ LAFEBER, *supra* note 22, at 14.

²⁵ Rodríguez Ferguson, *supra* note 23, at 25-27; Eduardo Tejeira Davis, *Evolución de la Arquitectura del Casco Antiguo/Evolution of Architecture in the Old Quarter*, in CIUDAD: EL CASCO ANTIGUO DE LA CIUDAD DE PANAMÁ (CITY: PANAMA CITY'S OLD QUARTER) 106, 138 (Oficina del Casco Antiguo, 2001). Eduardo Tejeira Davis,

²⁶ PANAMÁ HOY, *supra* note 20, at 92-93; BONIFACIO PEREIRA JIMENEZ, HISTORIA DE PANAMÁ 289 (1969).

²⁷ LAFEBER, *supra* note 22, at 22.

Colombia in 1903.²⁸ Soon afterwards, the new leaders signed a canal treaty with the United States—opening a new era in Panamanian history that, among other political, social, and economic impacts, greatly affected the face of Panama City.²⁹ During the canal construction period and in later years, the United States played a dramatic role in Panama City's urban development.³⁰ Balboa became the center of the U.S.-controlled Canal Zone, canal operations, and Panama's principal Pacific port. In Panama City proper, the canal authorities constructed a drainage system and aqueduct in San Felipe, paved streets, and exterminated mosquitoes.³¹ These infrastructure developments improved the public health of Panama City residents.³² The new Republican government also built new monumental buildings in San Felipe, including the National Theater in 1908.³³ Also built in 1908 was the Club Unión, a social center for the elite.³⁴ Modernity had arrived.

During this century, Panama City's population (essentially San Felipe and surrounding areas) grew from about 5,000 in 1821 (Independence from Spain) to 13,000 during the California gold rush period, to 24,000 at the end of the French Canal period, and finally to 60,000 in 1914 when the U.S.-constructed canal opened.³⁵

The construction of the canal also created a need for workers. Many West Indians arrived in Panama during the

²⁸ *Id.* at 23-24; PANAMÁ HOY, *supra* note 20, at 93.

²⁹ See TEJEIRA DAVIS, *supra* note 18, at 125-35; ANDREW ZIMBALIST & JOHN WEEKS, PANAMA AT THE CROSSROADS: ECONOMIC DEVELOPMENT AND POLITICAL CHANGE IN THE TWENTIETH CENTURY 22-39 (1991).

³⁰ TEJEIRA DAVIS, *supra* note 5, at 24, 50.

³¹ *Id.* at 24, 46.

³² *Id.* at 24, 50.

³³ Pizzurno, *supra* note 10, at 9.

³⁴ TEJEIRA DAVIS, *supra* note 3, at 58, 68.

³⁵ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 91-92; TEJEIRA DAVIS, *supra* note 5, at 24, 39, 47.

first two decades of the 20th Century to fill this need.³⁶ The influx of construction workers created a need for housing and stimulated the construction of rental tenements in El Chorrillo, Santa Ana, Marañón, and Calidonia, areas adjacent to San Felipe.³⁷ At this time, San Felipe was surrounded by low-income workers' rental housing.³⁸ These rental neighborhoods were located in close proximity to the railroad station located on the Plaza 5 de Mayo from which laborers commuted to their work sites.³⁹

In 1915, to celebrate the opening of the Canal, the first administration of President Belisario Porras (1912-1916) organized an international exposition in Panama.⁴⁰ To promote this celebration, the government filled swampy lands along Panama Bay and constructed Avenida Balboa and the new neighborhoods of La Exposición and Bella Vista.⁴¹ Many of the wealthy families living in San Felipe moved to these new neighborhoods.⁴² As the elite aban-

³⁶ PANAMÁ HOY, *supra* note 20, at 93.

³⁷ Pizzurno, *supra* note 10, at 9; Sandoya, *supra* note 7, at 413; TEJEIRA DAVIS, *supra* note 5, at 24, 52.

³⁸ TEJEIRA DAVIS, *supra* note 3, at 58, 63.

³⁹ The railway station was built on the Plaza 5 de Mayo. Pizzurno, *supra* note 10, at 7; TEJEIRA DAVIS, *supra* note 5, at 24, 25, 51.

⁴⁰ "La Explosión: Struggling to Survive in the Midst of Luxury and Urban Blight," 13 PANAMA—THE VISITOR/EL VISITANTE 4, Feb. 9-22, 2007, available at http://www.focuspublicationsint.com/New_Site/Visitor13-4/tours_visitor.html (last visited Sept. 14, 2008); CASTILLERO, *supra* note 18, at 167; Jorge Luis Mitchell, *Las Dos Caras de Bella Vista*, LA PRENSA (Panama), June 12, 2006, available at <http://mensual.prensa.com/mensual/contenido/2006/06/12/hoy/panoram/a/631831.html> (last visited Sept. 14, 2008).

⁴¹ Rodríguez Ferguson, *supra* note 23, at 28-29.

⁴² Pizzurno, *supra* note 10, at 18, 28; Rodríguez Ferguson, *supra* note 23, at 28; Ariel Espino, *Casco Antiguo: Su Gente*, PATRIMONIO HUMANO: ESPACIO ARTE, OFICINA DEL CASCO ANTIGUO, CIUDAD DE PANAMÁ, 2007, at 16, 18; PANAMÁ HOY, *supra* note 20, at 111; Sandoya, *supra* note 7, at 413; TEJEIRA DAVIS, *supra* note 5, at 24, 52, 55; Olmedo J. Varela, Modeling the Changing Urban Landscape of a Latin

doned San Felipe, their properties were subdivided into rental units and the neighborhood became a melting pot that represented multi-cultural Panama: Blacks, Mestizos, and whites; new migrants from the interior provinces; as well as Arab, Jewish, Chinese, and Hindu immigrants.⁴³ During much of the 20th Century, Panama's population became more ethnically and culturally diverse; however, the quality of the housing stock in San Felipe gradually deteriorated.⁴⁴

Additional factors also contributed to the deterioration of the housing stock in Panama City. For example, in response to a new tax on real property in 1925, owners' increased rents between 25% and 50%.⁴⁵ This stimulated the Renters' Movement of 1925, which resulted in the freezing of rents in Panama City.⁴⁶ The rent freeze created an incentive for owners not to maintain their properties and also led to an increase in condemned properties which continued to be occupied.⁴⁷ Subsequent rent controls in 1945 and 1959 returned rents in both cases to their 1941 levels.⁴⁸ The populist military government of Omar Torrijos again froze rents in 1973.⁴⁹

During much of the 20th Century (1920-1970), San Felipe was abandoned to its fate as the elite moved out and buildings continued to deteriorate.⁵⁰ During this half cen-

American City: Lessons from the Past and Considerations for the Future of Metropolitan Panamá City (Sept. 24-26, 1998). (Unpublished manuscript on file with American Studies Associations Conference).

⁴³ Ferguson, *supra* note 23, at 28-29.

⁴⁴ TEJEIRA DAVIS, *supra* note 5, at 24, 53; *See also* Espino, *supra* note 42 at 18, Ferguson *supra* note 23 at 28.

⁴⁵ TEJEIRA DAVIS, *supra* note 3, at 58, 65.

⁴⁶ *Id.* at 58, 65-66.

⁴⁷ Pizzurno, *supra* note 10, at 9.

⁴⁸ TEJEIRA DAVIS, *supra* note 3, at 58, 68.

⁴⁹ *Id.* at 58, 70. "Dictanse Medidas Sobre los Arrendamientos," Ley No. 93, at art. 36, de 4 de Octubre de 1973; Gaceta Oficial No. 17.456 (lunes 22 octubre de 1973).

⁵⁰ TEJEIRA DAVIS, *supra* note 5, at 24, 52-56.

tury, government policy gave no importance to historic preservation.⁵¹ The deterioration also occurred in the adjacent rental neighborhoods of El Chorrillo, Santa Ana, and Calidonia.⁵² In the 1950s the government constructed three-story cement housing units, and in the 1960s, 12 story housing blocks.⁵³ Much of El Chorrillo neighborhood burned in the 1989 U.S. invasion—adding to the urban blight. However, despite the decline of the Casco Antiguo, it remained the seat of the Panamanian Government with government offices such as the Presidential Palace, the Ministry of Government and Justice, and the Ministry of Foreign Affairs housed in the newly renovated Salón Bolívar, site of the Bolivarian Congress in 1826.⁵⁴

Architects and urban planners soon became alarmed at the deterioration of the architectural and historic monuments of San Felipe.⁵⁵ Owners of buildings preferred to allow their abandoned properties to deteriorate beyond repair and failed to save ornamental and decorative elements.⁵⁶ Saving San Felipe from deterioration required more than an isolated investment in restoration of a single building or a plaza; rather, a master plan for the entire area was essential. Part of this effort required that the govern-

⁵¹ EDUARDO TEJEIRA DAVIS, *Restauración y Conservación en Panamá: Una Retrospectiva*, in ENSAYOS SOBRE CONSERVACION Y RESTAURACION, 95, 96-102 (Nunzia Guardiani & Eduardo Tejeira Davis eds., 2004).

⁵² Eduardo Tejeira Davis, Address at the Conference on “Centros Históricos y Desarrollo Incluyente,” Canal Musuem, San Felipe, Panama (December 6, 2007).

⁵³ *Id.*

⁵⁴ *Id.*; PANAMÁ HOY, *supra* note 20, at 111-14; TEJEIRA DAVIS, *supra* note 18, at 202-03, 211-13.

⁵⁵ Sebastián Sucre, *San Felipe: Su Arquitectura, su Futuro*, in ARQUITECTURA, URBANISMO, ARTE 46-49 (Sebastián Sucre, ed., 1997). This essay was previously published in “Ellas,” the supplement to the Diario La Prensa, November 13, 1996.

⁵⁶ *Id.* at 49.

ment invest in and restore its own properties.⁵⁷ The other components of the solution included encouraging private owners and investors to restore and preserve historic structures.⁵⁸

In the 1970s, as the Torrijos government began to demonstrate a new interest in the values of San Felipe, the tide began to change.⁵⁹ This administration created the National Directorate of Historical Patrimony and facilitated San Felipe's first master plan.⁶⁰ Although the political and economic crisis of the 1980s slowed the restoration process, the resurgence of civilian governments in the 1990s expanded interest in preservation of San Felipe.⁶¹

II. Values of the Casco Antiguo

a. Spatial Arrangement

The Casco Antiguo historic district occupies approximately 30 ha of land on a peninsula projecting south into the Pacific Ocean.⁶² The district maintains its original orthogonal grid street layout with many streets paved in brick from the early 20th Century.⁶³ The heart of the district is the Plaza de la Independencia bordered by the Cathedral, the Municipal Palace, the Hotel Central, and the former headquarters of the French Canal Company (the Canal Museum today). Two smaller plazas also exist in blocks that were destroyed by the 18th Century fires.⁶⁴ The

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ TEJEIRA DAVIS, *supra* note 51, at 95, 102-08.

⁶⁰ Pizzurno, *supra* note 10, at 9; TEJEIRA DAVIS, *supra* note 5, at 24, 55.

⁶¹ TEJEIRA DAVIS, *supra* note 51, at 95, 108-12.

⁶² *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92.

⁶³ *Id.*

⁶⁴ Oficina del Casco Antiguo, *El Casco Antiguo y sus Plazas/The Old Quarter and its Squares*, in CIUDAD: EL CASCO ANTIGUO DE LA

colonial sea fortifications survive on the southern tip of the peninsula, but only a few ruins exist today of the Spanish colonial wall across the peninsula. The southern tip of the peninsula is the site of an additional plaza (Plaza de Francia) between curves in the sea fortifications in front of the French Embassy and old the Supreme Court building which today houses the National Institute of Culture (INAC).

b. Buildings

San Felipe's architecture is a mixture of Spanish colonial architecture and its early American variations, as well as French styles from the late 19th Century.⁶⁵ According to the UNESCO World Heritage Evaluation Committee, this combination of architectural styles creates a unique quality among Latin American colonial cities. Panamanian authorities have identified some 17 buildings in San Felipe as being important for 17th to 19th Century architectural heritage, and the UNESCO World Heritage Committee has agreed with these evaluations.⁶⁶

These important structures include numerous religious sites, including the Cathedral (1791), La Merced Church built with stones transferred from Old Panama (1688), San Felipe de Neri Church (1688), San José Church (1677), and San Francisco Church and convent where Bolívar celebrated the Bolivarian Congress in 1826 (originally built in the 18th Century).⁶⁷ Public buildings recognized for their architectural heritage include the Municipal Palace, the French Canal headquarters (originally,

CIUDAD DE PANAMA (CITY: PANAMA CITY'S OLD QUARTER) 152, 153 (Oficina del Casco Antiguo, 2001).

⁶⁵ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92; LEVY & GÓMEZ, *supra* note 8, at 17.

⁶⁶ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92.

⁶⁷ LEVY & GÓMEZ, *supra* note 8, at 21, 24, 29, 72; TEJEIRA DAVIS, *supra* note 18, at 211, 215; *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92.

the Grand Hotel; subsequently, the Post Office; and today, the Canal Museum), the National Theater, and the Presidential Palace (1673 with reconstruction in 1921), among others.⁶⁸ The Municipality restored the Casa Góngora (1760), a former privately-owned residence that today serves as an art gallery and cultural center.⁶⁹ Additionally, the World Heritage designation recognized the importance of numerous multi-family tenement houses constructed since the mid-19th Century.⁷⁰ These structures marked a change from the more traditional single-family upper class homes that were one to three stories in height, to multi-family units.⁷¹ This change symbolizes the social shift toward an increasingly complex social stratification.⁷²

Architects note the human scale of construction in San Felipe.⁷³ No building is taller than five stories and all points are easily accessible by foot. Four major public plazas are located in the historic district, and residents and visitors can view the ocean and other parts of Panama City from numerous viewing spots.

Buildings in San Felipe represent many different architectural styles. The 17th and 18th Century churches and convents represent Spanish colonial styles (Santo Domingo Church and convent (1675), La Compañía Jesuit Church and convent, La Merced Church, San José Church, the

⁶⁸ PANAMÁ HOY, *supra* note 20, at 111-14; LEVY & GÓMEZ, *supra* note 8, at 18, 21, 24, 29, 62.

⁶⁹ The Casa Góngora is a rare example of a structure in San Felipe that was expropriated by the Dirección Nacional de Patrimonio Histórico (DNPH). This occurred in 1995, and the property was transferred to the Municipality that same year for restoration. LEVY & GÓMEZ, *supra* note 8, at 79-80. The former owner had removed the roof to accelerate deterioration of the structure. Interview with Ariel Espino, Director of the Oficina del Casco Antiguo, San Felipe, Panama (December 12, 2007).

⁷⁰ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92.

⁷¹ *Id.*

⁷² *Id.*

⁷³ SUCRE, *supra* note 55, at 46-49.

Cathedral).⁷⁴ Buildings constructed in the late 19th Century and early 20th Century display numerous architectural styles, including Gothic and Romanic (San Francisco Church), Neo-classical (Municipal Palace, National Theater), and Art Nouveau and Art Deco (buildings on Avenue A).⁷⁵

Only about 10% of the space in the Casco Antiguo Historic District is occupied by public buildings.⁷⁶ Municipally-administered parks, plazas, and public infrastructure account for some 35% of the area.⁷⁷ The Archdiocese owns about 5% of the space while the remaining 50% of the area is privately-owned structures and lots.⁷⁸

When Panama nominated the Casco Antiguo for inscription as a World Heritage Site in 1995, the majority of buildings displayed significant deterioration.⁷⁹ Panama's nomination dossier noted that only 5% of the structures were reasonably conserved while 70% displayed significant physical or functional deterioration.⁸⁰ The principal causes of the deterioration included a lack of regular maintenance and high population densities in the sector which produced more wear-and-tear of buildings and also altered their structural integrity.⁸¹

c. People and Social Diversity

San Felipe corregimiento (borough) is a dense urban neighborhood that occupies only approximately 30 ha of land.⁸² National Census data indicate that the population

⁷⁴ LEVY & GÓMEZ, *supra* note 8, at 32.

⁷⁵ *Id.* at 47.

⁷⁶ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at 93.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.* at 92.

of San Felipe increased from 11,447 people in 1950, to 14,145 people in 1970.⁸³ However, since 1970, population has declined—11,696 people in 1980, to 10,282 people in 1990, to 6,928 people in 2000.⁸⁴ The dramatic decrease of residents during the 1990s was a result of both evictions because of restoration and real estate speculation.⁸⁵ Additionally, the deteriorating housing stock *may* have also led some people to abandon the neighborhood.⁸⁶ The National Census of 2010 will provide the next official indicator of San Felipe demographics. Some urban planners estimate that the 2010 population will be less than 4,000 people.⁸⁷

Social indicators point to the socio-economic diversity of San Felipe's residents. According to the 2000 National Census, the median income of residents in Panama City (Panama District) was \$362 per month.⁸⁸ However, the median income in San Felipe was merely \$305 per month and those of neighboring corregimientos were similar: El Chorrillo at \$280 per month and Santa Ana \$324 per month.⁸⁹ Median incomes in the middle class corregimientos in the central city were approximately twice as high: Betania at \$684 per month, Bella Vista at \$912 per month, and San Francisco at \$646 per month.⁹⁰ Income levels in San Felipe are similar to those in corregimientos on the urban periphery, such as Tocumen at \$300 per month and Chilibre at \$284 per month.⁹¹ Recent surveys of over 200 residents in San Felipe shed light on the housing

⁸³ TEJEIRA DAVIS, *supra* note 3, at 73.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See TEJEIRA DAVIS, *supra* note 5, at 24, 53.

⁸⁷ Ariel Espino, Address at the Conference on "Centros Históricos y Desarrollo Incluyente," Canal Museum, San Felipe, Panama (December 6, 2007).

⁸⁸ TEJEIRA DAVIS, *supra* note 3, at 58, 74-75.

⁸⁹ *Id.* at 75.

⁹⁰ *Id.*

⁹¹ *Id.*

situation there: about 42% of respondents lived in rental housing while a similar percentage occupied condemned or abandoned structures.⁹² In addition, only 6% of respondents resided in a unit or house that they owned.⁹³

Displacement and eviction of many of San Felipe's low income residents, and the subsequent occupation of restored buildings by wealthy residents will certainly change these data in the 2010 National Census. The population is expected to decrease significantly. At the same time, however, San Felipe's median income should increase dramatically due to the influx of wealthy residents.

d. UNESCO World Heritage Designation

UNESCO has granted World Heritage designation to areas in over 26 Latin American cities, including Panama's San Felipe neighborhood.⁹⁴ On September 29, 1995, the Government of Panama nominated the San Felipe historic district for inclusion in the World Heritage List.⁹⁵ Four criteria were cited as justification for San Felipe's nomination.⁹⁶ First, Panama advocated nomination based on the buildings, their fortifications, and their layout which "reflect the importance, interchange, adaptation, and persistence of human values that for centuries have been oriented towards further inter-oceanic communications at this strategic site on the Central American isthmus."⁹⁷ Second,

⁹² María Adames, Address at the Conference on "Centros Históricos y Desarrollo Incluyente," Canal Museum, San Felipe, Panama (December 6, 2007).

⁹³ *Id.*

⁹⁴ SEBASTIAN SUCRE, PUERTAS Y VENTANAS DEL BARRIO DE SAN FELIPE: TESTIMONIO DE UN VALIOSO LEGADO 8 (February, 2003); EDUARDO ROJAS, INTER-AMERICAN DEV. BANK, OLD CITIES, NEW ASSETS: PRESERVING LATIN AMERICA'S URBAN HERITAGE 7 (1999).

⁹⁵ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 91-92.

⁹⁶ *Id.*

⁹⁷ *Id.* at 91.

Panama emphasized San Felipe's 16th to 18th Century styled houses as exceptional because of their unique narrow lots and internal layout.⁹⁸ In fact, such houses can only found in this region of the Americas.⁹⁹ Additionally, Panama explained that the multiple family homes from the end of the 19th Century and early 20th Century illustrate "how society has reacted to new requirements, changes, and influences brought about by modern world-wide communications."¹⁰⁰ In other words, these houses are a monument to tenement buildings built to house construction workers of the Canal, and illustrate San Felipe's increasingly diverse social structure when compared to the original elite families of San Felipe.¹⁰¹

Also highlighted was the threat to conservation of San Felipe's cultural property by the deterioration of living conditions and increasing levels of poverty.¹⁰² The Panamanian Government was more polite in its characterization; it explained that "immovable cultural property is affected by a society seeking to resolve its manifold contradictions."¹⁰³ Finally, Panama's nomination noted the historical significance of Panama to Spanish expansion and commerce in South America, as well as the historic significance of the Salón Bolívar, the site of Simón Bolívar's Congress in 1826 which attempted to forge Latin American unity.¹⁰⁴

After Panama's nomination, an expert mission representing the International Council on Monuments and Sites (ICOMOS)¹⁰⁵ evaluated the nomination and sent a

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ ICOMOS (International Council on Monuments and Sites) is an advisory body mandated by the World Heritage Convention that evalu-

team to Panama in February 1996.¹⁰⁶ The group recognized the significance of Casco Antiguo's mixture of Spanish colonial, Early American, and French architecture—which was a product of Panama's position as an international crossroads.¹⁰⁷ The ICOMOS mission, however, requested a complete and final plan for revitalization of the historic district before it would grant final approval.¹⁰⁸ The mission also asked for clarification of the role of the Panamanian Tourist Institute (IPAT) in the Casco Antiguo revitalization plan.¹⁰⁹

In 1996, the Bureau of the World Heritage Committee adopted the recommendations of ICOMOS that withheld final approval until Panama clearly delineated the spatial area of the historic district and its buffer zone.¹¹⁰ The World Heritage Committee also requested additional support for restoration efforts—including the detailed master plan and legislation that controlled activities in these areas.¹¹¹ Panama supplied the requested information in January 1997, to the approval of ICOMOS experts.¹¹²

The World Heritage Committee finally approved the inscription of the San Felipe Historic District on the World Heritage List in September 1997.¹¹³ The justification was based on three criteria (ii, iv, and vi) which recognized the significance of street layout and buildings.¹¹⁴

ates nominated sites. World Heritage Convention, Glossary, *available at* <http://whc.unesco.org/en/glossary/> (last visited on April 17, 2008).

¹⁰⁶ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 93.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.* At that time, plans existed for the creation of a “buffer zone.”

However, this concept was eventually dropped from Decree Law No. 9 of 1997. TEJEIRA DAVIS, *supra* note 5, at 24, 56.

¹¹³ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 93-94.

¹¹⁴ *Id.* at 93.

Criterion v, which noted the growing threats to the patrimony of the area was rejected.¹¹⁵ The inscription read:

Panama was the first European settlement on the Pacific coast of the Americas, in 1519, and the Historic District preserves intact a street pattern, together with a substantial number of early domestic buildings, which are exceptional testimony to the nature of this early settlement.¹¹⁶

The World Heritage Committee also recognized the significant historical importance of the Salón Bolívar.¹¹⁷ The twenty-first session of the World Heritage Committee approved the inscription of the "Historic District of Panama" (Casco Antiguo Historic District) on the World Heritage List at its meeting in Naples, Italy, in December 1997.¹¹⁸

III. Evolution of Preservationist Legislation for the Casco Antiguo

Panamanian legislation to protect the cultural patrimony of San Felipe has evolved significantly in the past decades. The first protective legislation from 1941 declared several structures in that area as National Historic Monuments.¹¹⁹ These included the Cathedral, the San

¹¹⁵ *Id.* Although there is no formal documentation of the rejection of Criterion v, ICOMOS did not include this criterion in its justification for its September 1997 recommendation.

¹¹⁶ *Id.* at 93.

¹¹⁷ *Id.* at 94; LEVY & GÓMEZ, *supra* note 8, at 72.

¹¹⁸ World Heritage Committee, Report of the Twenty First Session, Naples 1997, WHC-97/CONF.208/17 (Feb. 27, 1998), available at <http://whc.unesco.org/archive/repcom97.htm#790>, at 48 (last visited Sept. 10, 2008).

¹¹⁹ "Sobre Monumentos Históricos Nacionales," Ley No. 68 de 11 de Junio de 1941; Gaceta Oficial No. 8.538 (Jueves 19 de Junio de 1941).

Felipe Church, the San Francisco Church, and the Flat Arch (Arco Chato) located in the ruins of the Santo Domingo convent and church.¹²⁰ This early legislation prohibited the sale, destruction, or alteration of these monuments and also designated the Department of Fine Arts of the Ministry of Education the responsible institution for the conservation of these sites.¹²¹ However, efforts focused merely on the protection of monuments and allegedly were poorly respected.¹²²

a. Law No. 91 (1976)

In 1976, Panama's National Assembly adopted legislation which, for the first time, focused on preservation of the Casco Antiguo as a whole rather than protection of individual monuments.¹²³ This legislation declared three sites—the historical areas of Portobelo and the Portobelo National Park on the Caribbean coast, the Old Panama ruins (Panamá Viejo), and the Casco Antiguo—“Monumental Historical Sites” (Conjuntos Monumentales Históricos) as they testify to the Nation's past.¹²⁴ Additionally, this designation covered similar intact buildings or ruins which had recognized architectural, historical, and aesthetic values.¹²⁵

Law No. 91 designated the Panamanian Tourist Institute (IPAT) as the agency responsible for administering, conserving, restoring, and promoting these three sites.¹²⁶ An advisory body, the National Council of Monumental

¹²⁰ *Id.* at art. 1.

¹²¹ *Id.* at arts. 2 & 3.

¹²² TEJEIRA DAVIS, *supra* note 51, at 95, 98.

¹²³ “Regúlense los Conjuntos Monumentales Históricos,” Ley No. 91 de 22 de Diciembre de 1976; Gaceta Oficial No. 18.252 (Miércoles 12 de Enero de 1977). See also TEJEIRA DAVIS, *supra* note 5, at 24, 55.

¹²⁴ Ley No. 91, *supra* note 123, at art. 5.

¹²⁵ *Id.* at art. 2.

¹²⁶ *Id.* at art. 4.

Historical Sites, comprised of representatives of four governmental agencies and two groups from civil society, was to advise IPAT on protection, administration, and restoration of the sites.¹²⁷ All construction or restoration projects required the permission of IPAT and the approval of the Council.¹²⁸ The Council also possessed the authority to recommend to IPAT and the Executive that the "Monumental Historic Sites" be declared "Historic Monuments."¹²⁹ The legislation set forth guidelines for the "Historic Monuments."¹³⁰ They could not be sold to private individuals, their use had to be compatible with their historic condition, and if they were privately owned, they could only be sold to the State or expropriated.¹³¹ The legislation defined the Casco Antiguo Historic Site spatially, by including the area on the peninsula to the east of Twelfth Street from shoreline to shoreline.¹³² As a result, the Panama City Municipal Engineer's office could not grant construction permits for any building within the Casco Antiguo Historic Site without the prior approval of IPAT and the National Council of Monumental Historic Sites.¹³³

The legislation also established general construction guidelines in the historic area. These guidelines mandated that any new construction must be in harmony with existing adjacent buildings, as well as those in the historic site.¹³⁴ For example, new buildings could not exceed four stories nor vary more than two stories from adjacent buildings.

¹²⁷ *Id.* at art. 6 & 7. The members of the Council represented the National Directorate of Historical Patrimony of the National Institute of Culture, the Ministry of Finance, the Housing Ministry, the Ministry of Agricultural Development, the Panamanian Academy of History, and the Archdiocese of Panama. *Id.* at art. 6.

¹²⁸ *Id.* at art. 9.

¹²⁹ *Id.* at art. 12.

¹³⁰ *Id.* at art. 13.

¹³¹ *Id.*

¹³² *Id.* at art. 37. See also TEJEIRA DAVIS, *supra* note 5, at 24-25.

¹³³ Ley No. 91, *supra* note 123, at art. 38.

¹³⁴ *Id.*

Door and window levels also had to be similar to the existing buildings, as did the external walls, façade, and decorative roof.¹³⁵

The 1976 legislation was significant because it recognized the importance of preservation of the entire historic district and established general criteria for new construction which required harmony with the existing architecture. However, despite this significant step, this initial legislation failed to involve private groups and owners in the process and lacked subsidies or incentives for private restoration efforts.¹³⁶ In fact, the legislation offered no financial support of any kind for restoration. With IPAT as the lead agency, the ultimate goal of the law appeared to be promotion of tourism—a common goal in initial stages of historic preservation.¹³⁷

b. Law No. 14 (1982)

In 1982, the National Assembly passed additional legislation which changed the institution responsible for conservation and administration of the nation's historical patrimony.¹³⁸ The National Institute of Culture, through its National Directorate of Historical Patrimony, was now

¹³⁵ *Id.*

¹³⁶ This legislation did not include provisions for inclusion of citizens groups in any stage of the decision-making process and also lacked an incentive regime.

¹³⁷ ROJAS, *supra* note 94, at 14-16. These public actions, however, do not ensure the viability of preservation, the long-term sustainability of restored buildings, or the engagement of the private sector in these efforts. *Id.* at 19. Direct government investment has resulted in successful historic preservation in some Latin American cities, such as Salvador, Bahia, Brazil, and Santo Domingo, Dominican Republic. *Id.* at 20.

¹³⁸ "Por la cual se dictan medidas sobre custodia, conservación y administración del Patrimonio Histórico de la Nación," Ley No. 14 de 5 de Mayo de 1982; Gaceta Oficial No. 19.566 (Viernes 14 de Mayo de 1982).

charged with the stewardship, conservation, administration, and investigation of Panama's historical patrimony.¹³⁹ This agency had to approve any restoration project involving national monuments.¹⁴⁰ A deliberative body—the National Commission of Archaeology and Historical Monuments—advised the National Directorate.¹⁴¹ The legislation reiterated that urban areas, such as streets, plazas, neighborhoods, or ruins could be considered national monuments.¹⁴² The 1982 legislation created the possibility of sanctions of up to B/.10,000, as well as ten months imprisonment for persons who destroyed these national monuments.¹⁴³

**c. Ministerial Resolution No. 75-90 (1990)
(MIVI)**

In 1990, the Housing Ministry (Ministerio de Vivienda or MIVI) promulgated special regulations for urban development in the Corregimiento de San Felipe¹⁴⁴ (San Felipe borough) which took into account the existing legislation pertaining to the Casco Antiguo Monumental Historical Site.¹⁴⁵ MIVI's special norms limited the uses of buildings in the Casco and set out structural parameters for construction, including restrictions on population densities, areas of occupation of a parcel, building height, construction lines, lateral and rear setbacks between buildings, and parking.¹⁴⁶ The resolution also reiterated the restrictions on

¹³⁹ *Id.* at art. 1.

¹⁴⁰ *Id.* at arts. 40, 42.

¹⁴¹ *Id.* at art. 4.

¹⁴² *Id.* at art. 37.

¹⁴³ *Id.* at art. 42.

¹⁴⁴ The limits of the Corregimiento de San Felipe (San Felipe Borough) are almost identical to the limits of the Casco Antiguo as defined by the 1976 legislation.

¹⁴⁵ "Por la cual se aprueba Norma Especial para el Corregimiento de San Felipe," Resolución Ministerial No. 75-90 de 13 de Diciembre de 1990; Gaceta Oficial No. 21.701 (Jueves 10 de Enero de 1991).

¹⁴⁶ *Id.* at art. 2.

construction and restoration of dwellings (single and double-family residences, row houses, apartments—but excluded rooming houses); cultural, religious, and educational facilities; small businesses such as pharmacies, bookstores, craft shops, corner grocery stores, and small restaurants.¹⁴⁷ According to the legislation, use should not adversely affect the residential nature of the Casco nor conflict with the area's architectural style.¹⁴⁸ Additionally, the height restrictions limited new buildings to four stories (ground floor plus three floors), and affirmed that neighboring buildings could have no more than two stories difference.¹⁴⁹

Although this resolution was not a proactive plan for the restoration of the Casco nor detailed zoning, it nevertheless remains significant as the first effort to guide new construction in the historical zone. The posture of the State with respect to the Casco Antiguo would change radically several years after MIVI's resolution.

d. Decree Law 9 (1997)¹⁵⁰

Decree Law No. 9, passed in 1997, symbolized a significant shift in historical preservation in Panamá as it utilized fiscal incentives to encourage preservation and restoration of structures in the San Felipe historic district. Essentially, the legislation recognized that historic preservation of the Casco Antiguo was beyond the capacity of the public sector and that the private sector should also bear the cost of preservation. This legislation expanded the area

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ "Por medio del cual se establece un régimen especial de incentivos para la restauración y puesta en valor del Conjunto Monumental Histórico del Casco Antiguo de la Ciudad de Panamá," Decreto Ley No. 9 de 27 de agosto de 1997; Gaceta Oficial No. 23.366 (sábado 30 de agosto de 1997).

included in the San Felipe “Monumental Historic Site” several blocks further to the northwest—approximately from 12th Street to 14th Street.¹⁵¹ Additionally, the Decree Law recognized that not all structures within the district possessed the same historic value.¹⁵² The National Directorate of Historic Patrimony (DNPH) was charged with classifying structures based on parameters that the Decree Law described in Article 3.¹⁵³ The classification indicated the degree of human intervention allowed.¹⁵⁴

Buildings classified as first-order structures represented the highest historical and cultural values and were generally constructed prior to 1850.¹⁵⁵ Nevertheless, more modern structures might fall into this class if they were determined to be one of the best examples in the country of the architecture of that time period. First-order structures were to be conserved and restored using scientific methodologies, although discordant elements could be eliminated.¹⁵⁶ Buildings classified as second-order structures presented some important architectural elements of their architectural period—regardless of the date—and were also considered to have a relatively high value. Restoration was to focus on high value elements, although discordant elements could be eliminated.¹⁵⁷ Buildings classified as third-order structures offered little architectural value but may have created important “environmental” values.¹⁵⁸ The legislation mandated the conservation of the façade of these structures and the elimination of discordant elements. At

¹⁵¹ *Id.* at art. 3. See also TEJEIRA DAVIS, *supra* note 5, at 24, 25.

¹⁵² Decreto Ley No. 9, *supra* note 150, at art. 3.

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at art. 3(a).

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at art. 3(b).

¹⁵⁸ Although Decree Law No. 9 does not define “environmental values,” they might include “aesthetic” values or “city-scape” values that create enjoyable urban spaces.

the same time, renovation could not significantly alter the exterior that was visible from the street. No new floors could be added to the front of the building; the front roof had to maintain its original angle and form; and the existing window openings “vanos” had to be conserved without the addition of new windows.¹⁵⁹ Finally, buildings classified as fourth-order structures were defined as those built post-1940 which offered little or no architectural or environmental value.¹⁶⁰ In these cases, remodeling was less strict. However, restoration had to improve the environmental quality of the site and respect exiting norms.¹⁶¹ Sites where new construction was allowed were limited to fourth-order structures and empty lots.¹⁶² However, in both cases new structures had to maintain the architectural style of nearby buildings.¹⁶³

Decree Law No. 9 established the procedure for architects and developers wishing to restore structures in the Historic District.¹⁶⁴ Project proponents had to submit new development or restoration plans to the National Directorate of Historic Patrimony (DNPH).¹⁶⁵ Within fifteen days, the DNPH would then convene a meeting of the National Commission of Archaeology and Historical Monuments to evaluate the proposal.¹⁶⁶ The Commission could recommend approval, denial, or modification.¹⁶⁷ The DNPH and the Commission also had to grant approval for final plans.¹⁶⁸ Additionally, the legislation required that the Municipality not approve construction plans or permits in the

¹⁵⁹ Decreto Ley No. 9, *supra* note 150, at art. 3(c).

¹⁶⁰ *Id.* at art. 3(d).

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.* at art. 4, 5, & 6.

¹⁶⁵ *Id.* at art. 4.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at art. 5.

Historic District unless the project proponent had obtained written approval from the DNPH.¹⁶⁹

An innovative aspect of Decree Law No. 9 was the regime of economic incentives it used to support restoration activities by numerous real property actors in San Felipe. Incentives were offered to mortgagees who used borrowed funds to purchase or restore historic properties, current owners beginning restoration, investors in restoration projects, and renters of restored properties.¹⁷⁰ The legislation primarily focused on incentives for financing restoration projects. Banks could participate in a system of "Preferential Mortgages for Restoration" which were used exclusively for purchasing a building located in the Casco Antiguo, financing the total or partial restoration of a building located in the historic district, or constructing a new building in the historic district on a parcel where none existed.¹⁷¹ In order to take advantage of these preferential loans, the current or future owner had to have his project plans approved by the DNPH and also use the object property as collateral for the loan.¹⁷²

Decree Law No. 9 also specified that the construction or restoration project be financed by a preferential mortgage which would have to begin within one year after approval of the loan.¹⁷³ The legislation also specified how

¹⁶⁹ *Id.* at art. 7.

¹⁷⁰ *Id.* at Chapters III & IV (arts. 8 – 32). Decree Law No. 9 marks the initiation in Panama of a shared public-private effort to protect the cultural patrimony of the Casco Antiguo. The government established a regulatory environment to attract private investment and protect the public interest. The regulatory environment included the regime of fiscal incentives, as well as standards, norms, and procedures for restoration. The expectation was to encourage private residential and commercial real estate investors to take advantage of opportunities in the Casco Antiguo. See ROJAS, *supra* note 94, at 8.

¹⁷¹ Decreto Ley No. 9, *supra* note 150, at art. 9.

¹⁷² *Id.*

¹⁷³ *Id.* at art. 21.

the preferential rate would be calculated.¹⁷⁴ Each quarter, the Director of the National Banking Commission would publish a local market reference interest rate based on mortgages, with no less than a fifteen year period offered by the participating financial institutions.¹⁷⁵ These preferential rates were based on the average interest rate offered for these loans by the five largest financial institutions during the month immediately prior to the date of publication of the new preferential rate.¹⁷⁶ The preferential interest rate offered by participating banks and mortgages companies could not be more than three percentage points less than the calculated average interest rate.¹⁷⁷ The legislation also offered participating financial institutions an incentive to participate in this regime. During the loan period these financial institutions would receive a fiscal credit equal to the difference between the income they would have earned with and without the preferential interest rate mortgages.¹⁷⁸ The fiscal credit could be earned during the lifetime of the original loan and could be applied against the institution's tax on earnings.¹⁷⁹ The credits could be applied against the financial institution's tax obligations for three years after they were generated or could even be transferred to other taxpayers via written agreement.¹⁸⁰

Additionally, the legislation created fiscal incentives to encourage the sale of historic properties with the ultimate goal of promoting restoration by the new owners. Current property owners who sold their buildings or land in the historic district were exempt from taxes on the profits from the property transfer if the sale occurred within two years from the date of approval of Decree Law No. 9 (Au-

¹⁷⁴ *Id.* at art. 10.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* at art. 11.

¹⁷⁸ *Id.* at art. 12.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

gust 30, 1999).¹⁸¹ Similarly, such property transfers were also exempt from property transfer tax which was two percent of the sales value.¹⁸² Additionally, property transfers within the two year window were also exempt from property tax obligations.¹⁸³ However, if the new owner had failed to initiate restoration, construction, or reconstruction within 5 years of the purchase date, he would be subject to back taxes with interest and penalties.¹⁸⁴

An additional suite of incentives targeted current owners or developers who undertook construction or restoration activities on property in the Casco Antiguo. Owners who restored or built properties were exempt from taxes on profits from property sale, rental, or transfer of the property for a period of ten years measured from the date of the occupancy permit.¹⁸⁵ Owners of these new or restored buildings who obtained occupancy permits after the passage of the Decree Law No. 9 were exempt from property taxes for a period of 30 years.¹⁸⁶ The first transfer of the renovated property after the date of passage of the legislation was also exempt from the property transfer tax, as long as the minimum investment in restoration of the building was more than B/. 50,000 [US \$50,000].¹⁸⁷ Similarly, a property owner who constructed or restored the property within five years subsequent to passage of the legislation was exempt from the Tax on Profits from Commercial, Professional, or Industrial Activities that the property owner conducted on the property for a five year period measured from the date of the occupancy permit.¹⁸⁸ A final

¹⁸¹ *Id.* at art. 22.

¹⁸² *Id.* at art. 23.

¹⁸³ *Id.* at art. 24.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at art. 26. The Código Fiscal (Tax Code) establishes this 10% national tax on profits.

¹⁸⁶ *Id.* at art. 27.

¹⁸⁷ *Id.* at art. 28.

¹⁸⁸ *Id.* at art. 29.

provision provided an exoneration of import taxes for any equipment or materials used in construction or restoration activities in the Casco Antiguo, provided that the equipment or materials were not produced in Panama in the desired quantity and quality.¹⁸⁹ This legislation also contained several additional incentives. Renters of renovated or newly constructed buildings in the Casco Antiguo could deduct their monthly rents from their general incomes for personal income tax purposes for a period of five years measured from the time of the occupancy permit.¹⁹⁰ Persons who used lots or buildings for public parking purposes were exempt from paying taxes on the generated income for a period of ten years from the date of the occupancy permit.¹⁹¹ Furthermore, any legal or natural person could include amounts invested in the construction, restoration, maintenance, or improvement of parks, churches, green spaces, or any other public site in the Casco Antiguo as a deduction from his or her income tax.¹⁹²

In addition to the sweeping set of fiscal incentives for property owners who renovated buildings in the historic district, Decree Law No. 9 also recognized the plight of renters and squatters who would be displaced as a result of restoration activities. The legislation mandated that the Housing Ministry "take the necessary measures to facilitate the relocation of persons who currently live in buildings in the Casco Antiguo that were to be restored or renovated."¹⁹³ Although, the legislation failed to define "necessary measures," the legislation demanded that the Housing Ministry's General Directorate of Rental Properties be informed of all eviction requests related to Casco Antiguo structures.¹⁹⁴ A property owner in the historic district who

¹⁸⁹ *Id.* at art. 30.

¹⁹⁰ *Id.* at art. 31.

¹⁹¹ *Id.* at art. 32.

¹⁹² *Id.* at art. 25.

¹⁹³ *Id.* at art. 33.

¹⁹⁴ *Id.* at art. 34.

planned to renovate his building in conformity with the established regulations and norms also had to file an eviction notice with the Agency.¹⁹⁵ The Decree Law also established a non-extendable thirty-day period during which the General Directorate of Rental Properties had to approve or reject the eviction request via summary hearing.¹⁹⁶ If the Ministry failed to reject the eviction request within the 30 days, the eviction was presumed approved.¹⁹⁷

The legislation also referred to renter's rights. Faced with eviction, the renter had to abandon the premises within 30 days but could extend the final occupancy period by an additional month for every 12 months of occupancy to a maximum of 6 months.¹⁹⁸ In addition, the property owner had to compensate all renters who were current with their rental payments.¹⁹⁹ The compensation was equivalent to one month's rent for 12 months of occupancy with a maximum payment equivalent to 6 months' rent.²⁰⁰ Additionally, property owners who requested eviction but failed to begin restoration within a year, or failed to continue restoration once begun, faced fines.²⁰¹ The fines were not less than B/. 1,000 nor more than B/. 10,000.²⁰²

The Decree Law also created additional sanctions. Owners of unoccupied buildings who "fail[ed] to take the necessary measures to protect the structure or diminish the deterioration of the building" could face fines ranging between B/. 100 and B/. 10,000.²⁰³ These penalties could be levied by the DNPH of the INAC.²⁰⁴ The DNPH also had

¹⁹⁵ *Id.* at art. 35

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at art. 36.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.* at art. 37.

²⁰² *Id.* B/. 1 is equivalent to US \$1.

²⁰³ *Id.* at art. 38.

²⁰⁴ *Id.*

additional authority to levy fines against owners of unoccupied properties in the Casco Antiguo who, for at least two years, failed to “take the necessary measures to conform to the restoration policy of the Monumental Historic Site.”²⁰⁵ These fines ranged between B/. 1,000 and B/. 10,000.²⁰⁶ These fines and penalties were then to be deposited into a special fund to restore and conserve the Casco Antiguo Monumental Historic Site.²⁰⁷ Finally, the legislation noted that persons who took advantage of the incentives created by Decree Law No. 9 had to complete their projects within 5 years of the date of promulgation of the Decree (August 30, 2002).²⁰⁸

e. Law No. 4 (2002)²⁰⁹

Almost five years after the passage of Decree Law No. 9, the National Assembly approved Law No. 4; many of the provisions revised articles of the earlier legislation. The new legislation was necessary because the applicability of many of the fiscal incentives were limited to the five-year period after promulgation of the Decree Law No. 9, which ended on August, 30 2002.²¹⁰ The new legislation extended the older provisions concerning evictions and

²⁰⁵ *Id.* at art. 39.

²⁰⁶ *Id.*

²⁰⁷ *Id.* at art. 40.

²⁰⁸ *Id.* at art. 41.

²⁰⁹ “Que modifica el Decreto Ley 9 de 1997, sobre un régimen especial de incentivos para el Casco Antiguo de la Ciudad de Panamá, y dicta otras disposiciones,” Ley No. 4 de 15 de Enero de 2002; *Gaceta Oficial* No. 24,472 (jueves 17 de enero de 2002).

²¹⁰ Article 41 of Decreto Ley No. 9 stipulated that the incentive regime applied to property transfers that occurred five years after its promulgation – meaning the date of its publication in the *Gaceta Oficial*. Publication occurred on Aug. 30, 1997. Decreto Ley No. 9, *supra* note 150, at art. 41. Therefore, applicability of the first incentive regime terminated on Aug. 30, 2002.

created low income "social housing" within the historic district."²¹¹

Article 1 of the new law extended the tax exemption period (paid on profits gained from the transfer of real property in the Casco Antiguo) as long as the transfer occurred before the end of 2003.²¹² Furthermore, real property transfers before the end of 2003 were exempt from the Property Transfer Tax.²¹³ Property transfers during this time period were also exempt from property tax obligations.²¹⁴ The 2002 legislation, like Decree Law No. 9, required a new property owner to commence reconstruction or restoration within five years, or pay back the tax exemption benefit with interest and penalties.²¹⁵ However, the new legislation forgave new owners who had begun to evict occupants but had not been able to complete process due to factors beyond their control.²¹⁶ Article 4 of the new legislation extended the period of exemption of the tax on profits from commercial, professional, or industrial activities of property owners in the building for a five year period measured from the date of the occupancy permit.²¹⁷ This tax exemption covered new or renovated properties for the ten-year period from promulgation of Decree Law No. 9 (August 30, 1997 to August 30, 2007).²¹⁸

The new legislation also modified provisions for eviction of current occupants of buildings to be renovated.²¹⁹ While the 1997 Decree Law stipulated that the owner would pay of one month's rent for each 12 months of occupancy to a maximum of six months, the amended arti-

²¹¹ *Id.* at arts. 7, 8, 9, 10.

²¹² *Id.* at art. 1.

²¹³ *Id.* at art. 2.

²¹⁴ *Id.* at art. 3.

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.* at art. 4.

²¹⁸ *Id.*

²¹⁹ *Id.* at art. 5.

cle changed this payment into a flat fee depending on the number of years of occupancy.²²⁰ For example, a person occupying a rented unit for more than 40 years would have the right to receive B/. 5,000, while a person renting the unit for less than 10 years would could receive B/. 2,000.²²¹ Again, the property owner could claim these payments as tax credits.²²² Further, the new legislation extended the period during which property owners were eligible for fiscal credits and incentives to August 30, 2007—or ten years after promulgation of Decree Law No. 9.²²³

Law No. 4 referred to low income housing in the historic district. Article 8 demanded that the Housing Ministry along with the National Mortgage Bank renovate properties owned in San Felipe for purpose of constructing low-income housing [“vivienda social” or “social housing”] according the architectural parameters of the National Directorate of Historic Patrimony.²²⁴ These low income housing projects soon became symbols of government efforts to maintain the social diversity and fabric of San Felipe as the city underwent social transformation.

f. Executive Decree No. 51 (2004)²²⁵

In 2004, the Ministry of the Presidency promulgated detailed rules for the restoration of the Casco Viejo historic district. These rules incorporated the classification of

²²⁰ *Id.*

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.* at art. 8.

²²⁵ “Por Medio del Cual se Aprueba un Manuel de Normas y Procedimientos para la Restauración y Rehabilitación del Casco Antiguo de la Ciudad de Panamá,” Decreto Ejecutivo No. 51 de 22 de abril de 2004, Gaceta Oficial No. 25.039 (jueves 29 de abril de 2004).

structures defined in Decree Law No. 9 and provided specific requirements for the classification of structures.²²⁶

The Executive Decree also detailed allowable use of space in Casco Antiguo.²²⁷ For example, its provisions required that electric cables, telephone lines, sewers, drains, and water pipes be buried.²²⁸ Streets were to be paved with clay bricks similar to those which currently existed.²²⁹ Vehicles weighing more than seven tons and longer than seven meters or wider than two meters were prohibited on Casco Antiguo streets.²³⁰ The rules also identified different zoning categories and defined permitted uses for each category.²³¹

Owners and developers had to follow certain procedures that the Executive Decree laid out when they proposed construction, modification, or renovation.²³² Developers had to present a pre-proposal to the National Directorate of Historic Patrimony (DNPH) when they wished to construct new buildings, restore first-order or second-order structures, intervened in more than 35% of the total area of a building, or proposed a land use change.²³³ After inspecting the site, the DNPH convened a meeting of the National Commission of Archaeology and National Monuments to evaluate the proposal within fifteen days.²³⁴ Ultimately, the DNPH could approve, modify, or disapprove the proposal within 15 days after the meeting of the Commission.²³⁵ Last, after obtaining this approval, a

²²⁶ *Id.* at arts. 125-33.

²²⁷ *Id.* at arts. 134-52, 156-98.

²²⁸ *Id.* at arts. 27, 29, 34, 38, 40, 44.

²²⁹ *Id.* at art. 59.

²³⁰ *Id.* at art. 64.

²³¹ *Id.* at arts. 8-16.

²³² *Id.* at título IV, arts. 199-238.

²³³ *Id.* at art. 202.

²³⁴ *Id.* at art. 219.

²³⁵ *Id.* at arts. 218-20.

developer had to apply for a construction permit from the municipality's construction office.²³⁶

The rules also provided for numerous sanctions. A developer who began work without a permit from the DNPH or who violated a permit may have had to demolish the new structure or reconstruct the destroyed structure.²³⁷

Total or partial destruction or demolition of a building in the Casco Antiguo without permission could have lead to a maximum fine of B/. 50,000.²³⁸ If an owner evicted tenants but failed to begin restoration, he or she could have faced fines between B/. 1,000 and B/. 10,000.²³⁹ An owner of an unoccupied building who through inaction failed to avoid the deterioration of the building may have been fined between B/. 100 and B/. 10,000.²⁴⁰

The Executive Decree appeared to contemplate establishing a Casco Antiguo "buffer zone" but instead created a "transition area with structures of historic or archaeological interest."²⁴¹ Under this Decree, the land use rules of the Casco Antiguo apply to the "transition area;"²⁴² however, the Executive Decree failed to spatially define the "transition area" or define "buildings of interest."²⁴³

Thus, almost 30 years after the designation of the Casco Antiguo historic district, detailed rules exist to guide developers or renovators of structures, public utilities, and the use and construction of public infrastructure. An incentive regime is also in place to encourage private owners to restore their properties, and sanctions exist for actions that violate the spirit of preservation.

²³⁶ *Id.* at art. 225.

²³⁷ *Id.* at art. 232.

²³⁸ *Id.* at art. 233.

²³⁹ *Id.* at art. 234.

²⁴⁰ *Id.* at art. 235.

²⁴¹ *Id.* at art. 6.

²⁴² *Id.*

²⁴³ *Id.*

IV. Restoration Efforts and Results

During the past several decades, many civil and professional groups dreamed of the restoration of the Casco Antiguo and hoped that one day it would enjoy protection similar to Cartagena, Colombia; San Juan, Puerto Rico; or La Habana, Cuba. Their dreams were blocked by numerous factors: occupation of structures by poor residents who did not pay rent or protect the buildings, absentee owners who had no interest or incentive in maintaining their properties, lack of financial resources and a plan to channel restoration, and lack of government support for such a project.

The Torrijos military government in the early 1970s focused new energy toward the renovation of San Felipe.²⁴⁴ Carlos Flores Marini developed a master plan between 1972 and 1975 focusing on revitalization of San Felipe's national monuments and public spaces.²⁴⁵ During the Torrijos Administration, actual restoration of government buildings in the Casco Antiguo occurred with the assistance of the Inter-American Development Bank following the approval of Law No. 91 (with the exception of the National Theater which was restored later).²⁴⁶ These initial restoration efforts from 1977 to 1985, included the façade of the Cathedral, the Plaza de la Independencia, the San Francisco Church, and the Mano de Tigre Bastion.²⁴⁷ Additional conservation efforts restored the Municipal Palace (1977), the Casa de la Municipalidad (1979-83), the Santo Domingo monastery (1981-83), the Jesuit Church (1981-83),

²⁴⁴ TEJEIRA DAVIS, *supra* note 5, at 24, 55; TEJEIRA DAVIS, *supra* note 51, at 95, 102-08.

²⁴⁵ TEJEIRA DAVIS, *supra* note 5, at 24, 55; TEJEIRA DAVIS, *supra* note 51, at 104.

²⁴⁶ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92-93;

TEJEIRA DAVIS, *supra* note 51, at 104.

²⁴⁷ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 92-93.

and three additional plazas.²⁴⁸ Further evidence of the increasing interest in cultural patrimony was Panama's ratification of the World Heritage Convention in 1978.²⁴⁹

From 1990 to 1991, after a decade of political and economic crisis in the 1980s, and the end of the authoritarian military government, the new civilian administration of President Guillermo Endara created an ad hoc presidential commission for the conservation of the historic district.²⁵⁰ Additionally, in 1995, during her active term as mayor, Mayín Correa initiated a Revitalization Plan which adopted many of the aspects of the original 1972 master plan.²⁵¹ This plan, sponsored by the Inter-American Development Bank, considered that the Municipality would take the lead in restoration.²⁵²

Despite these initial attempts to protect public spaces and buildings, San Felipe restoration did not begin in earnest until the administration of President Ernesto Pérez-Balladares, with the passage of the Decree Law No. 9 in 1997, and the UNESCO World Heritage Site designation in

²⁴⁸ *Id.*; TEJEIRA DAVIS, *supra* note 5, at 24, 56.

²⁴⁹ Ley No. 9 de 27 de octubre de 1977, Gaceta Oficial No. 18.552 de 7 de abril de 1978, "Por la Cual se Aprueba la Organización de las Naciones Unidas para la Educación, la Ciencia y la Cultura"; States Parties: Ratification Status, at <http://whc.unesco.org/en/statesparties/>; TEJEIRA DAVIS, *supra* note 51, at 106.

²⁵⁰ Vanessa Spadafora, *El Casco Antiguo de la Ciudad de Panamá: Gestión, Planificación y Puesta en Valor*, in ENSAYOS SOBRE CONSERVACIÓN Y RESTAURACIÓN 117, 119 (Nunzia Guardiani & Eduardo Tejeira Davis eds., 2004). Endara was President of Panamá from 1989-1994. INSTITUTO DEL TERCER MUNDO, GUÍA DEL MUNDO: EL MUNDO VISTO DESDE EL SUR 2001/2002 454-55 (2001).

²⁵¹ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 93; Spadafora, *supra* note 250, at 117, 119.

²⁵² Vanessa Spadafora, *El Plan Maestro: Objetivos y Metodología* (The Master Plan: Objectives and Methodology), in CIUDAD: EL CASCO ANTIGUO DE LA CIUDAD DE PANAMÁ (CITY: PANAMA CITY'S OLD QUARTER) 172, 182 (Oficina del Casco Antiguo, 2001).

1997.²⁵³ For the first time in Panama, preservationist legislation attempted to create economic incentives to promote the restoration of privately-owned properties.²⁵⁴

Following approval of Decree Law No. 9 and the designation of the World Heritage Site, the Pérez-Balladares Administration created a high-level commission charged with the elaboration of a master plan to coordinate activities to protect the Casco Antiguo patrimony.²⁵⁵ The commission included representatives of the institutions responsible for plans and activities necessary for successful restoration of the historic district—the Vice-Minister of the Presidency, the Vice Minister of the Housing Ministry, the Director of the Panamanian Tourism Institute (IPAT), and the Director of the National Institute of Culture (INAC).²⁵⁶ The commission was charged with elaborating the master plan for restoration of the Casco Antiguo, defining the lines of action, and determining the different allowable uses of the area.²⁵⁷ The Executive Decree stipulated that the master plan should contain themes related to traffic circulation, uses of public areas, infrastructure and basic services, public outreach of uses of the area, training programs for people involved in restoration activities, and cultural and artistic activities.²⁵⁸ For the first time, the Decree also created a technical office which would answer to the Vice Minister of the Presidency, be composed of restoration

²⁵³ Pérez-Balladares was President of Panama from 1994-99. INSTITUTO DEL TERCER MUNDO, *supra* note 250 at 455.

²⁵⁴ The legislative analysis in Section III of this manuscript clearly illustrates Decreto Ley No. 9 provided for the first fiscal incentives for restoration of private-owned building in the Casco Antiguo.

²⁵⁵ “Por el cual se crea la Comisión de Alto Nivel para la Restauración y Puesta en Valor del Conjunto Monumental Histórico del Casco Antiguo de la Ciudad de Panamá,” Decreto Ejecutivo No. 84 de 14 de Abril de 1998, Gaceta Oficial No. 23,524 (viernes 17 de abril de 1998).

²⁵⁶ *Id.* at art. 1.

²⁵⁷ *Id.* at art. 2.

²⁵⁸ *Id.* at art. 3.

experts, and develop and coordinate the implementation of the master plan.²⁵⁹

The subsequent administration of President Mireya Moscoso produced another Executive Decree in 2000, which was almost identical to the 1998 version.²⁶⁰ This version added the Mayor of Panama City to the commission, and changed the name to the Office of the Casco Antiguo (OCA).²⁶¹ A technical group also answered to the OCA and was the body responsible for coordination of restoration activities.²⁶² The OCA attempted to avoid the centralized models that were the norm in the 1970s and 1980s.²⁶³ Instead, it strived to coordinate the actions and interventions of government agencies, take advantage of aid and cooperation from foreign governments, and foster public-private partnerships.²⁶⁴ Its primary task was the implementation and coordination of the actions set forth in the master plan.²⁶⁵

Development of the master plan for the Casco Antiguo took many variables and data sets into account to evaluate the conditions and characteristics and architectural remains; among these were census demographic data and social indices, public services and transportation infrastructure, spatially-referenced (GIS) historical and current land uses, inventories of more than 800 properties in San Felipe.²⁶⁶

²⁵⁹ *Id.* at art. 5.

²⁶⁰ "Por el cual se crea la Oficina para la restauración y puesta en valor del Conjunto Monumental Histórico del Casco Antiguo de la Ciudad de Panamá," Decreto Ejecutivo No. 192 de 20 de Noviembre de 2000; Gaceta Oficial No. 24.187 (viernes 24 de noviembre de 2000).

²⁶¹ *Id.* at art. 1. Executive Decree No. 192 also included the Minister of the Presidency and the Minister of Housing instead of the Vice-Ministers.

²⁶² *Id.* at art. 5.

²⁶³ Spadafora, *supra* note 250, at 117, 119.

²⁶⁴ *Id.* at 117, 119, 126.

²⁶⁵ *Id.* at 119.

²⁶⁶ *Id.* at 117, 119-126; Spadafora, *supra* note 252, at 172, 174-79.

The dynamic and flexible master plan attempted to define the areas in need of intervention, revitalization and restoration in Casco Antiguo.²⁶⁷ The plan was organized around seven themes.²⁶⁸

1. Economic vitalization and training of skilled workers—Training school (“Escuela Taller”) in restoration skills, preparation of local guides, improved social services for residents, strengthening of small businesses.²⁶⁹
2. Housing—Outreach about fiscal incentives, “social housing” projects, actions to stop abandonment and deterioration of structures.²⁷⁰
3. Tourism and cultural activities—Plans for a museum in the Jesuit Church ruins, cultural center in the ruins of the Santo Domingo Convent, promotion of hotel development, promotion of cultural activities.²⁷¹
4. Infrastructure—Plans for more than 680 new parking spaces; studies to consider pedestrian zones, and public transport alternatives; burial of electric and telephone cables, illumination of streets.²⁷²

²⁶⁷ Spadafora, *supra* note 250, at 117, 119; Spadafora, *supra* note 252, at 172, 173.

²⁶⁸ Spadafora, *supra* note 250, at 127-28; Spadafora, *supra* note 252, at 172, 211.

²⁶⁹ OFICINA DEL CASCO ANTIGUO (OCA), REVIVE LA COMUNIDAD: DESARROLLO E INTEGRACIÓN SOCIAL (n.d.); Spadafora, *supra* note 252, at 172, 212.

²⁷⁰ OFICINA DEL CASCO ANTIGUO (OCA), REVIVE LA ARQUITECTURA: RECUPERACIÓN DE INMUEBLES (n.d.); Spadafora, *supra* note 252, at 172, 218-19.

²⁷¹ OFICINA DEL CASCO ANTIGUO (OCA), REVIVE EL TURISMO: NUEVOS DESTINOS TURÍSTICOS (n.d.); Spadafora, *supra* note 252, at 172, 222-23.

²⁷² OFICINA DEL CASCO ANTIGUO (OCA), REVIVE LA CALIDAD: INFRAESTRUCTURA Y SERVICIOS URBANOS (n.d.); Spadafora, *supra* note 252, at 172, 224-25.

5. Improvement of Public Services—reformulation of traffic routes, improvement of trash collection, improvements if security.²⁷³
6. Legislation, Regulations, and Management—Provision of a legal framework for Casco Antiguo restoration and development, creation of a technical office²⁷⁴
7. Specific Projects—Restoration of numerous public buildings and spaces in the Casco Antiguo.²⁷⁵

The results of the restoration efforts speak for themselves. Property values in the Casco Antiguo historic district skyrocketed. Most buildings in the district have recently been purchased, although not yet restored.²⁷⁶ In 2002, the purchase price for un-restored properties ranged between \$150 and \$400 per square meter.²⁷⁷ At that time, restored property values ranged between \$1,000 and \$1,600 per square meter.²⁷⁸ In early 2008, restoration activities were evident on almost every block in San Felipe,²⁷⁹ and renovated property values averaged around \$2,000 per square meter. These values rank among the highest in the Panama City real estate market today.²⁸⁰ The complete restoration of the San Felipe historic district now appears to be highly probable.

The origin of investors and developers evolved. The incentive legislation (Decree Law No. 9 of 1997) attracted largely Panamanian purchasers, although slowly. In

²⁷³ *Id.* at 172, 226-27.

²⁷⁴ *Id.* at 172, 228-29.

²⁷⁵ *Id.* at 172, 232-33.

²⁷⁶ PANAMÁ HOY, *supra* note 20, at 110.

²⁷⁷ *Id.*

²⁷⁸ *Id.*; TEJEIRA DAVIS, *supra* note 3, at 58, 76.

²⁷⁹ Interview with Ariel Espino, *supra* note 69. According to Espino, some 30 restoration projects were in progress in December 2007.

²⁸⁰ Interview with Ausberto Rosas, Legal Counsel, Sanson, Rosas y Asociados, in Panama City, Panama (April 10, 2008).

recent years, however, most developers have been foreign and largely European (Spanish, Italian, and French).²⁸¹ The fiscal incentive program offered only small savings to investors who were willing to spend a million dollars or more on a restoration project. Additionally, the Spanish Government is funding a Training School (Escuela Taller) that offers two years of training in restoration arts (wood-working, masonry, iron-working).²⁸² Over fifty male and female students—all Casco Antiguo residents—are currently participating in this training which develops skills needed for restoration activities.²⁸³ In fact, the students are currently renovating the Santo Domingo Church and Convent.²⁸⁴

V. Challenges to Restoration Efforts

Recently, conservation of cultural and historic patrimony in San Felipe has faced many challenges. The cities structures lost many of their unique qualities during the 20th Century due to social pressures, lack of maintenance, growth, neglect by government officials.²⁸⁵ During this period, many buildings were irrevocably lost to decay and deterioration. Nevertheless, in recent years restoration efforts have begun in earnest, thanks to recent legislation creating fiscal incentives for restoration and preservation activities. Important government buildings located in San Felipe, the majority of which have been restored during the past 35 years, also provide an anchor for restoration efforts.

²⁸¹ *Id.*

²⁸² *Escuela Taller en Plena Restauración del Convento de Santo Domingo*, LAS ÚLTIMAS DEL CASCO (OFICINA DEL CASCO ANTIGUO, CIUDAD DE PANAMÁ), Mar. 2007; Interview with Ariel Espino, *supra* note 69.

²⁸³ Interview with Ariel Espino, *supra* note 69.

²⁸⁴ *Id.*

²⁸⁵ See above Sections I and II(b) of this manuscript. See also TEJEIRA DAVIS, *supra* note 5, at 24, 52-55.

Moreover, the historic district has gained the international recognition which is clearly deserved. Nevertheless, numerous challenges to the successful restoration and preservation of San Felipe still remain.

a. Competition in the Housing Stock

The most significant impetus to restoration of San Felipe was Decree Law No. 9 which the National Assembly approved in 1997. This legislation created numerous tax incentives which jump-started redevelopment of the historic neighborhood. However, this process began more slowly than expected.²⁸⁶ One of the reasons for the slow start was the oversupply of middle-class and upper-class housing in metropolitan Panama City during the 1990s.²⁸⁷ Intense development of high-end condominiums in Marbella, Paitilla, and San Francisco began. Additionally, the Panamanian government through the Inter-Oceanic Regional Authority (ARI), began to sell residential properties in the former-Canal Zone and U.S. military bases, in areas such as Albrook, Balboa, Curundú, Diablo, and Clayton.²⁸⁸ These properties were attractive because of their green-space and “garden city” layouts. Middle-class Panamanians had numerous housing choices in the 1990s.

²⁸⁶ TEJEIRA DAVIS, *supra* note 51, at 114-15. Another reason for the slow start of active participation in the incentive regime was the economic recession of the late 1990s that had significant adverse affects on the local real estate market. E-mail from Ausberto A. Rosas R., Legal Counsel, Sanson, Rosas & Asociados, (March 25, 2008 13:23:01 GMT) (on file with author).

²⁸⁷ Pizzurno, *supra* note 10, at 11.

²⁸⁸ TEJEIRA DAVIS, *supra* note 3, at 58, 76; Olmedo Varela, *supra* note 42, at 7.

b. Failure to Adequately Protect Structures located in the San Felipe Historic District

As the San Felipe area began to deteriorate in the 1920s, numerous administrations failed to act to protect the national cultural patrimony of the area. The National Assembly approved the first preservationist legislation in 1941, but this merely declared a hand-full of sites as "National Historic Monuments."²⁸⁹ It was not until the 1976 legislation that the entire Casco Antiguo area as a whole was considered worthy of preservation.²⁹⁰ This legislation also established guidelines for construction in the clearly-defined area.²⁹¹ Despite this theoretical evolution in historic district preservation, government investments focused on the publicly-owned monumental structures in the area. Additionally, the government provided no fiscal incentives to private investors to encourage restoration and did not take action to restore decaying residential buildings in the Casco Antiguo.²⁹²

The 1995 dossier prepared by the Panamanian Government to support World Heritage Site designation for the Casco Antiguo noted that about 70% of the structures in the area displayed marked deterioration.²⁹³ Today, the majority of unrestored occupied buildings are degraded, overcrowded and dangerous. Many empty buildings are boarded, and numerous blocks of San Felipe resemble a wasteland. Of the 830 structures in San Felipe, more than 100 are presently abandoned, and many of these have been abandoned for decades.²⁹⁴ Interiors of buildings are de-

²⁸⁹ TEJEIRA DAVIS, *supra* note 51, at 95, 97-98.

²⁹⁰ See above Section III(a) of this manuscript.

²⁹¹ *Id.*

²⁹² As noted previously, legislation regarding renovation of the Casco Antiguo did not provide for economic or fiscal incentives until the 1997 Decreto Ley No. 9. See above Section of this manuscript III(d).

²⁹³ *World Heritage List: Panamá (Panamá)*, *supra* note 4, at 93.

²⁹⁴ Espino, *supra* note 42, at 17.

stroyed, walls and roofs are crumbling, and balconies appear likely to fall at any moment. An unfortunate incident in February 2007, illustrates the physical decay of many buildings. Part of the eaves and roof from an occupied 132-year old three-story building on Avenida Central collapsed killing a mother and her two children as they exited a bakery on the street level.²⁹⁵ The deterioration of structures even poses a risk to passers-by on the street.

Part of the difficulty of restoration in the Casco Antiguo is the high percentage of private properties. About 90% of the buildings are privately owned.²⁹⁶ Many owners ceased to maintain their properties because of populist government policies which froze rents.²⁹⁷ The abandonment of the San Felipe by the elite in the first half of the 20th Century and the occupation by lower-income renters and squatters has also encouraged deterioration of structures. Additionally, the government failed to take the initiative in restoration activities of residences during the decline of San Felipe or to intervene to stop deterioration. The Housing Ministry, Municipality, or National Institute of Culture (INAC) all failed to purchase deteriorated properties and subsequently restore them. The government could then have rented or sold its restored residences. Direct government intervention might have jump-started restoration of residences in the Casco Antiguo.²⁹⁸ Active govern-

²⁹⁵ Manuel Vega Loo, *Caída de Alerón Deja Tres Muertos*, LA PRENSA, (2007) available at <http://mensual.prensa.com/mensual/contenido/2007/02/26/hoy/panorama/902261.html> (last visited Sept. 14, 2008).

²⁹⁶ Interview with Ariel Espino, *supra* note 69.

²⁹⁷ TEJEIRA DAVIS, *supra* note 3, at 58, 68-69, 70-71.

²⁹⁸ In Guayaquil, Ecuador, the Municipality expropriated decaying properties in the historic district of Las Peñas for \$4.5 million and subsequently restored them for rental properties. *Con la Casa Urbina, el Barrio Las Peñas Completa su Restauración* (July 5, 2007), available at <http://www.eluniverso.com/2007/07/05/0001/18/597A9711194747349AAA963CCF8B173B.aspx>.

ment participation and leadership in the creation of “social housing” several decades ago could have promoted the social diversity of San Felipe’s population and avoided the gentrification occurring today in the area. Yet, the political will was absent.

Speculation by investors or property owners also may slow restoration efforts. For example, the current or new owners of property in San Felipe often have decided to hold on to empty, unrestored properties with the expectation that increasing property values will make future sales much more profitable.²⁹⁹ Moreover, many “flippers” consider an empty property more “attractive” than an occupied property.³⁰⁰ Recent legislation contained provisions that the government could use in these cases. For example, Article 37 of Decree Law No. 9 stipulated that owners who requested eviction but failed to begin restoration within one year could face fines.³⁰¹ Article 38 of the same law noted that owners of unoccupied buildings who failed to stop deterioration could be fined.³⁰² According to Article 41, persons who take advantage of fiscal incentives must complete restoration by 2002.³⁰³ All of these provisions require active government oversight, inspection, and enforcement.³⁰⁴ In a resource-limited environment, this is often

²⁹⁹ Espino, *supra* note 42, at 17.

³⁰⁰ *Id.*; E-mail from Ausberto A. Rosas R., Legal Counsel, Sanson, Rosas & Asociados, (March 25, 2008 13:23:01 GMT) (on file with author).

³⁰¹ See above Section III(d) of this manuscript. Decreto Ley No. 9, *supra* note 150, at art. 37.

³⁰² See above Section III(d) of this manuscript. Decreto Ley No. 9, *supra* note 150, at art. 38.

³⁰³ See above Section III(d) of this manuscript. Decreto Ley No. 9, *supra* note 150, at art. 41.

³⁰⁴ Government expropriation of condemned structures in the Casco Antiguo does not appear to be a viable alternative. The Constitution allows expropriation only in instances of urgent social interest, during war time, or during serious disturbances to the public order. Decreto Ley No. 9, *supra* note 150, at art. 51.

challenging. Nevertheless, the Oficina del Casco Antiguo has sanctioned owners of abandoned and deteriorating buildings.³⁰⁵ In fact, in December 2007, some 60 sanctions were “in process.”³⁰⁶

Additionally, even “approved” restoration projects are sometimes questionable and appear to further destroy cultural patrimony. For example, the Hotel Central located on the Plaza de la Independencia was constructed in the late 19th Century (1880), and was Panama’s finest hotel until the 1920s.³⁰⁷ However, gradual deterioration of the neighborhood and the physical structure led to the hotel’s closure in the late early 1990s.³⁰⁸ A Spanish consortium finally purchased the property in 2006, and is currently “restoring” the structure which will eventually serve as a five-star luxury hotel and meeting center thanks to a \$20 million investment.³⁰⁹ Many observers of the restoration process, however, note with alarm the complete gutting of the building.³¹⁰ As of April 2008, only three exterior walls remained.³¹¹ The DNPH of the INAC had classified the hotel as a “Second Order Structure” which requires that restora-

³⁰⁵ Interview with Ariel Espino, *supra* note 69.

³⁰⁶ *Id.*

³⁰⁷ TEJEIRA DAVIS, *supra* note 18, at 224.

³⁰⁸ José Arcia, Hotel Central, reducido a escombros, La Prensa (Panamá) (Mar. 16, 2008), available at <http://mensual.prensa.com/mensual/contenido/2008/03/16/hoy/panoram/1295513.html>, also available at <http://biblioteca.prensa.com/contenido/2008/03/16/15-6a-notadelhotel.html> (last visited Sept. 14, 2008).

³⁰⁹ *Id.*

³¹⁰ *Id.*; Untitled and unauthored article in La Prensa (Panamá) (Mar. 16, 2008), available at <http://biblioteca.prensa.com/contenido/2008/03/16/16-9b-news1.html> (last visited Sept., 14, 2008); Hoy por hoy, La Prensa (Panamá) (Apr. 13, 2008), available at <http://biblioteca.prensa.com/contenido/2008/04/13/13-1a-hoyporhoy.html> (last visited Sept. 14, 2008).

³¹¹ Arcia, *supra* note 308.

tion highlights the high value elements.³¹² Included among these high value elements were a wooden staircase imported from New York in 1884 which connected the central patio to the upper floors, as well as the gallery railings, pivoted windows and skylights, and masonry facade.³¹³ However, when gutting the building, developers destroyed the wooden staircase even though it was in good condition, as well as all the other structures.³¹⁴ Even the three remaining walls may be lost due to destabilization, according to Manuel Choy, President of ICOMOS.³¹⁵ This project occurred even though the National Commission of Archaeology and Historical Monuments (Conamuh) had not approved the final restoration plans.³¹⁶ Many critics question whether the government inspectors were even monitoring this important “restoration” (i.e. “demolition”) project—located on the main plaza and only two blocks away from the INAC and OCA offices. The failure of authorities to regulate the restoration of this important structure suggests that in the future they will be even less able to respond to demands of investors and developers.³¹⁷ Some have even suggested that the failures to protect the

³¹² José Arcia, *Demolición arriesga patrimonio*, La Prensa (Panamá) (Mar. 22, 2008), available at <http://biblioteca.prensa.com/contenido/2008/03/22/22-5a-not3.html>, also available at <http://mensual.prensa.com/mensual/contenido/2008/03/22/hoy/panoram/1301662.html> (last visited Sept. 14, 2008); Decreto Ley No. 9, *supra* note 150, at art. 3(b).

³¹³ *Untitled and unauthored article in La Prensa*, *supra* note 310.

³¹⁴ *Id.*

³¹⁵ *Untitled and unauthored article, LA PRENSA (Panamá)* (Mar. 22, 2008), *available at*: <http://biblioteca.prensa.com/contenido/2008/03/22/22-9b-news1.html> (last visited Sept. 14, 2008).

³¹⁶ Arcia, *supra* note 308.

³¹⁷ *Untitled and unauthored article, LA PRENSA*, *supra* note 315.

cultural heritage of San Felipe may lead to placing this site on the World Heritage in Danger List.³¹⁸

The above example refers to a private project. Perhaps the government does a better job of preserving its own properties? This is somewhat questionable, however, as the following examples illustrate. On November 7, 2003, the 325-year old Arco Chato (Flat Arch) in the ruins of the Santo Domingo Convent collapsed.³¹⁹ The arch extended 50 feet across the nave at a height of 35 feet.³²⁰ The exact causes of this loss of cultural heritage may never be completely clarified. Excessive rainfall, natural deterioration of materials, vibrations from traffic, and lack of maintenance were all suggested as possibilities.³²¹ During the past decade, this author has observed many incompatible activities in the ruins below in the arch, including parties with high-volume electronic music. The State clearly must take some of the responsibility for this loss due to its lack of maintenance and allowance of what most would consider activities that are “incompatible” with archaeological ruins.

The ruins of the Jesuit church provide another example. The OCA website listed the rehabilitation of these

³¹⁸ Arcia, *supra* note 312.

³¹⁹ Franco Rojas, *Confabulación contra el Arco Chato*, LA PRENSA (Panamá) (Nov. 22, 2003), *available at* <http://biblioteca.prensa.com/contenido/2003/11/22/22-4a-not1.html>, *also available at* <http://mensual.prensa.com/mensual/contenido/2003/11/22/hoy/portada/1369795.html> (last visited Sept. 14, 2008); José Quintero De León, *Sucumbe el Arco Chato*, LA PRENSA, (2003), *available at* <http://biblioteca.prensa.com/contenido/2003/11/08/8-1a-not1.html>, *also available at* <http://mensual.prensa.com/mensual/contenido/2003/11/08/hoy/portada.shtml> (last visited Sept. 14, 2008).

³²⁰ *Id.*

³²¹ *Gentío: ¿Qué Opina usted del desplome de la estructura del Arco Chato?* LA PRENSA (Panama) (Nov. 9, 2003), *available at* <http://biblioteca.prensa.com/contenido/2003/11/09/9-3sondeo.html> (last visited Sept. 14, 2008); Rojas, *supra* note 319.

ruins in December 2004 as a priority project.³²² However, as of April 2008, this project had yet to begin.³²³ Not only is public access denied and educational signage extremely limited; vegetation grows on the walls of these ruins. Clearly, the State could do much more to protect this 17th Century cultural resource.

Many factors have contributed to the failure to adequately protect structures. High quality restoration of historic structures is a costly undertaking that requires political will, professional expertise, and funding. Not all of these have been present in the Casco Antiguo. Additionally, the high percentage of privately owned buildings requires vigorous government oversight and monitoring of restoration activities, as well as the evolving condition of the structures. Panama's model of a public-private partnership to restore the Casco Antiguo demands great commitment from the authorities, including a clearly-defined master plan, technical assistance, and oversight of the private sector's restoration activities.³²⁴ Inspectors also need to actively fine owners who fail to restore their private property and thus fail to satisfy their social responsibility. This government role is also costly in terms of effort and trained personnel. Property values speculation has led to many abandoned and unrestored buildings, as owners wait for the "best" moment to invest or sell. In the interim, structures continue to deteriorate. The majority of privately owned buildings were occupied by low income renters or squatters during much of the 20th Century; thus, owners had little incentive to maintain their property. Regardless of the varied causes for the deterioration of the housing stock in San Felipe, the abandoned and decaying buildings need to be addressed

³²² José Arcia, *Un Edificio Antiguo a la Espera de Rehabilitación*, LA PRENSA, Apr. 13, 2008, at 6A.

³²³ *Id.*

³²⁴ ROJAS, *supra* note 94, at 21-22.

immediately before structures literally collapse. Restoration in the Casco Antiguo is clearly a race against time.

c. Incentive Regime and Government Oversight

The current incentive regime laid out in Decree Law No. 9 (1997) and Law No. 4 (2002) has expired.³²⁵ To benefit from the various fiscal incentives, properties must have been transferred prior to the end of 2003.³²⁶ Proposals exist to extend the incentive regime for an additional period.³²⁷ However, it appears unlikely that the National Assembly will approve controversial new legislation for the Casco Antiguo before an election year (2009).³²⁸ Perhaps at this time, fiscal incentives would only be marginally beneficial as most of the housing stock has already been purchased by new investors. The sharp increase in housing prices in recent years perhaps provides sufficient incentive for restoration activities.

More direct government action is needed to guarantee protection of private properties. Other instruments exist besides fiscal incentives. Subsidies could be offered to developers to create "social housing." New taxes on developments could also fund "social housing." Stricter monitoring and inspections of the San Felipe housing stock and

³²⁵ See Section III(e) of this manuscript. As noted above, in art. 1 of Law No. 4 (2002), the incentive regime only applies to properties that were transferred by the end of 2003. Ley No. 4, *supra* note 209, at art. 1.

³²⁶ Ley No. 4, *supra* note 209, at art. 1.

³²⁷ In January, 2008, the Oficina del Casco Viejo (OCA) provided the author with a draft of proposed legislation to extend a modified version of the current incentive regime for the Casco Antiguo.

³²⁸ Panama will celebrate nationwide general elections for President, Legislators and Representatives on May 3, 2009. See Decreto 9 (Apr. 9, 2008), available at <http://www.tribunal-electoral.gob.pa/elecciones/elecciones-2009/decretos/Decreto-9.pdf> (last visited Jul. 17, 2008).

implementation of norms is essential. Providing technical support in restoration activities as a service to developers could also enhance proper renovation. Administrative sanctions for violations are rather low considering the current property values in San Felipe and, were they ever applied, hardly serve as a disincentive for developers to “sit” on unrestored properties.

d. Gentrification and changing social structure of the Casco Antiguo

As discussed previously, from the 1920s to the end of the century, San Felipe became an increasingly “popular” or more lower-income neighborhood, abandoned by the elites who moved to neighborhoods further to the east along the waterfront.³²⁹ These new residents represented a cross-section of Panamanian society in class, race, and culture.³³⁰ The restoration process is clearly changing the social composition of San Felipe. New owners are evicting renters and squatters before they restore the structures.³³¹ Restored properties in the Casco Antiguo represent some of the highest property values in Panama today.³³² New residents are inevitably wealthier than those whom they displace and often are foreigners who only reside for part of the year in Panama.³³³ This social change appears result in streets that are empty and without life where there was once color, activity, and noise. The new residents are also more dependent on private automobiles as well, creating parking problems.³³⁴ Historic preservation always creates winners

³²⁹ TEJEIRA DAVIS, *supra* note 5, at 24, 52.

³³⁰ See also Espino, *supra* note 42 at 18; Rodríguez Ferguson *supra* note 23 at 28.

³³¹ Espino, *supra* note 42, at 17.

³³² TEJEIRA DAVIS, *supra* note 3, at 58, 76; Espino, *supra* note 42, at 17.

³³³ *Id.*

³³⁴ Ariel Espino, Director of the Oficina del Casco Antiguo, considers that low income residents place less demands on infrastructure than

and losers.³³⁵ In this case, the winners are the local and foreign investors in restoration projects and the new residents. The displaced low income residents are the losers.

The thorny issue of displacement of low-income residents prior to commencement of architectural restoration presents many perspectives. On the one hand, a new owner of a property faces the reality of a semi-abandoned structure occupied by up to fifty families who do not pay rent. Although theoretically the Municipality should be responsible for eviction, in reality, the new property owner must resolve this difficult issue. Even though these residents have no legal basis for remaining, the Civil Code grants them certain rights. Thus, even though the Decree Law No. 9 and Law No. 4 discuss compensation for evicted families and established time limits for families to remain in their homes, this process has often been very slow and arduous. Real evictions are often slower than may appear in theory.

The social inequity is also troubling. Low-income residents, many of them long-term residents in San Felipe are displaced and the community structure is disrupted. While some displaced people find new housing in low-income neighborhoods in the central city (El Chorrillo, Santa Ana, Calidonia), others have no option but to move to areas with accessible housing in the periphery of Panama City some 20 km away (Tocumen or Arraiján). Public transportation from the periphery to the center of Panama City often requires a commute of several hours one way. Do only wealthy people have the right to live in the central city with easy access to services? A group of urban artists recently asked just this question:

new wealthier residents because they consume less and use public transportation instead of private automobiles. Espino, *supra* note 87.

³³⁵ Joseph Scarpaci, Address at the Conference on “Centros Históricos y Desarrollo Incluyente,” Canal Museum, San Felipe, Panama (December 6, 2007).

We're used to assuming that only the wealthiest people have a right to live downtown in the most attractive areas and that the poor people have no option but to accept "exile" in poor neighborhoods that surround the city and grow daily. Life in the center city should be democratic. Cultural heritage belongs to everyone.³³⁶

Noticeably absent in San Felipe are grassroots resident initiatives to restore properties via cooperative brigades and subsequently gain title to the restored residences.³³⁷ In the Old Port neighborhood of Montevideo, Uruguay (Ciudad Vieja), numerous buildings have been restored by brigades of residents. Women often form the core of these work brigades.³³⁸ This type of restoration action by squatters who restore the space they occupy is absent in Panama. Perhaps the social and political organization of groups in Uruguay, or support and encouragement

³³⁶ "Estamos acostumbrados a presumir que solo los más pudientes tienen derecho a vivir en el centro, en las áreas más atractivas, y que los pobres no les queda otra que exiliarse en esos lejanos cinturones de pobreza que crecen día a día . . . La vida en el centro . . . se debe democratizar. . . . (E)l patrimonio es de todos." Espino, *supra* note 42, at 20 (translation by author).

³³⁷ Recent surveys of San Felipe residents indicate that 95% do not belong to a neighborhood organization of any kind. Adames, *supra* note 92.

³³⁸ *Desde Marzo Otorgan Préstamos para Rehabilitar Viviendas de Ciudad Vieja*, LA REPÚBLICA (Montevideo, Uruguay) (Feb. 27, 2006), available at <http://www.larepublica.com.uy/comunidad/203715> (last visited Sept. 14, 2008); Diana Cariboni, *Cooperativa de Viviendas por Ayuda Mutua MUJEFA: Reciclando el Futuro*, available at <http://www.chasque.apc.org/vecinet/mujefa.htm> (last visited Sept. 14, 2008); Raúl Vallés, "Derecho al Centro": Proceso de Acceso y Permanencia de los Sectores Populares al Área Central de la Ciudad de Montevideo, Presentation at the V Jornada Internacional de Vivienda Social – El Derecho a la Ciudad y a la Vivienda: Propuestas y Desafíos en la Realidad Actual.

from authorities explain the success of the Uruguayan example and its absence from Panama.

San Felipe only offers a few cases of direct government intervention to restore buildings to create “social housing” or low-income housing.³³⁹ Several notable examples exist on the periphery of the Casco Antiguo Historic District—Casa Boyacá, la Casa Rosada, among others.³⁴⁰ These are government residential properties belonging to the Panamanian Tourism Institute (IPAT) and the Banco Hipotecario.³⁴¹ With funding from the Junta de Andalucía, the Office of the Casco Antiguo restored a two-story triangular-shaped wooden tenement (Casa Boyacá).³⁴² Some twenty-six families rent subsidized units in Casa Boyacá for monthly rents that are as low as \$30.00.³⁴³ While this example is symbolic and represents an innovative solution to create low-income rental possibilities, it clearly only makes a small contribution to the social diversification of the Casco Antiguo.

Perhaps revised legislation could create additional fiscal incentives for owners to create several low-income

³³⁹ However, near the Casa Boyacá the government owns some 38 lots (but not the structures) on the site of the demolished colonial wall. Many of the owners of the structures have not been identified. The Oficina del Casco Antiguo hopes to eventually use these government-owned parcels as sites for affordable housing. Grassroots groups are also advocating this solution. Interview with Ariel Espino, *supra* note 69.

³⁴⁰ The Casa Boyacá is a two story wooden triangular structure that probably dates from 1890. It resembles the prow of a ship. The building’s location next to the old Spanish wall forced the building’s shape. LEVY & GÓMEZ, *supra* note 8, at 82.

³⁴¹ OFICINA DEL CASCO ANTIGUO (OCA), REVIVE LA ARQUITECTURA: RECUPERACIÓN DE INMUEBLES, (n.d.).

³⁴² TEJEIRA DAVIS, *supra* note 18, at 231; Interview with Ausberto Rosas, Legal Counsel, Sanson, Rosas y Asociados, in Panama City, Panama (April 11, 2008).

³⁴³ Interview with Ausberto Rosas, Legal Counsel, Sanson, Rosas y Asociados, in Panama City, Panama (April 11, 2008); Espino, *supra* note 87.

units in their restored properties or in other units in or near San Felipe. Alternatively, a percentage of permitting fees or hotel and restaurant taxes could contribute to a special fund (“Social Housing Fund”) which would finance affordable housing in San Felipe, as had been the example in La Candelaria, Bogotá, Colombia. Although investors may complain that no extra resources exist to contribute to such a fund, some observers of the Casco Antiguo situation estimate that the profit margin for investors in restoration projects is greater than 20%.³⁴⁴

Alternatively, the issue of social housing is one area that could benefit from increased and more direct government investment. Authorities should actively use eminent domain powers to condemn deteriorating structures and then invest in their restoration for social (low cost) housing.³⁴⁵

³⁴⁴ Interview with Raisa Banfield, Architect and Alianza Pro Ciudad member, Panama City, Panama (March 28, 2008).

³⁴⁵ ROJAS, *supra* note 94, at 17. Efforts to preserve the historic quarter in Quito, Ecuador, also provide a good example of attempts to avoid displacement of local residents.

e. Traffic –Parking issues and traffic control

San Felipe streets were not constructed for the traffic of the 21st Century, as streets are narrow. Only limited parking is available in several municipal lots and around several plazas.³⁴⁶ The Casco Antiguo Office regulates the entry of large buses and trucks into the historic district, as mandated by the San Felipe land use norms enacted in 2004.³⁴⁷ Other options for parking may exist. Buildings built since 1940 are generally classified as Fourth Order buildings and may be demolished.³⁴⁸ Some owners of restored buildings have also purchased a nearby building constructed after 1940 and demolished it to create parking for their residents. Additional proposals include a large public parking lot on the site of the demolished Public Market, trolley service in the historic district, or street closure to most vehicles. However, movement on these projects has been slow.

f. Absence of a Citizens' Advisory Committee

A public-private partnership to restore the Casco Antiguo requires the active participation of a wide mix of social actors with different interests, including government and cultural elites, citizen and community organizations, political parties, tourist operators, real estate investors, and community residents.³⁴⁹ This requires acceptance of the important role of the private sector in transparent decision-making.

Restoration efforts in San Felipe have been very “top-down” and led by the national government through legislation and master plans. Urban planners and architects

³⁴⁶ Spadafora, *supra* note 252, at 172, 206.

³⁴⁷ Decreto Ejecutivo No. 51, *supra* note 225.

³⁴⁸ Decreto Ley No. 9, *supra* note 150, at art. 3(d).

³⁴⁹ ROJAS, *supra* note 94, at 8, 23.

advocated for preservation of the neighborhoods patrimony, but little evidence exists of grassroots citizens' efforts to protect "their" neighborhood. In addition, notably absent from the restoration process in San Felipe is a citizens' advisory committee. Many new and old residents of San Felipe are extremely concerned by the direction of restoration process, the challenges and obstacles that it faces, and the social changes in the area. A citizens' advisory committee could offer important recommendations to government officials concerning potential solutions "numerous quality of life" issues. Additionally, such a committee could provide important information to officials on neighborhood problems and cases non-compliance with the existing regulations. A citizen's committee could also be a valuable conduit of information from government officials to residents.

g. Development of Panama and Outside Threats to the Integrity of Casco Antiguo

Numerous developments in Panama City could impact the restoration activities and quality of life in San Felipe. One of these is the "Cinta Costera" (Coastal Belt), a major project begun in 2007 to fill in (reclaim) approximately 30 ha of Panama Bay adjacent to Avenida Balboa.³⁵⁰ The reclaimed area extends for almost 3 km along Avenida Balboa.³⁵¹ The Ministry of Public Works' primary purpose for this project is construction of additional high-

³⁵⁰ Cinta Costera – La Vitrina del Nuevo Panamá, *available at* <http://www.cintacostera.com.pa/proyecto-caracteristicas.html> (last visited Sept. 10, 2008); Coastal Beltway (Cinta Costera), Panamá City, Panamá, *available at* <http://www.roadtrafficttechnology.com/projects/cintacosta/> (last visited Sept. 10, 2008); Urania Cecilia Molina, *Cinta Costera Va (Green Light for the Coastal Beltway Project)*, LA PRENSA (Panamá), Mar. 17, 2007, at 1A.

³⁵¹ *Id.*

way lanes to ease the traffic congestion in central Panama City and connect with a partially-constructed system of expressways.³⁵² Great debate surrounds the amount of “green space” that will eventually exist on the newly-filled lands.³⁵³ The filled area in the “Cinta Costera” project will end only 500 m from the beginning of the Casco Antiguo Historic District.³⁵⁴ Moreover, a large number of vehicles will pass on these new highways only a short distance from San Felipe. The potential impacts on air quality, visual aesthetics, or traffic impacts in the Casco Antiguo of the “Cinta Costera” have not been considered.

An additional concern for San Felipe is the serious deterioration of the low-income neighborhoods that surround it: El Chorrillo, Santa Ana, Calidonia, and central artery—la Avenida Central. The housing stock and infrastructure of these neighborhoods are deteriorating as the commercial activities have moved to several new shopping centers in more accessible areas for automobiles. Many structures of significant architectural value are deteriorating

³⁵² Urania Cecilia Molina, *Nuevo Diseño de la Cinta Costera (New Design for the Coastal Beltway)*, LA PRENSA (Panama), Mar. 17, 2007, at 5A.

³⁵³ Ana Teresa Benjamín, *Cinta Costera en el Ojo del Huracán (Coastal Beltway in the Eye of the Hurricane)*, LA PRENSA (Sección Construcción) (Panamá), Mar. 27, 2007, at 4; La Cinta Costera de Panamá (The Coastal Beltway of Panamá), ALIANZA PRO-CIUDAD, available at <http://alianzaprociudad.org/cintacostera.html> (last visited Sept. 10, 2008); Eric Jackson, *Bern Upset with Newspaper Coverage of his Hotel and the Cinta Costera*, THE PANAMA NEWS, Vol. 14, No. 13 (Jul 8, 2008), available at http://www.thepanamanews.com/pn/v_14/issue_13/economy_07.html (last visited Sept. 10, 2008); *Green Areas Shrink in Cinta Costera's Updated Plans*, English News Panama, available at http://englishnews Panama.com/index.php?option=com_content&task=view&id=687&Itemid=176 (taken from LA PRENSA, May 2, 2008) (last visited Sept. 13, 2008).

³⁵⁴ The Cinta Costera Project will end at the Mercado del Marisco (Seafood Market) less than half a kilometer from the Casco Antiguo. Benjamín, *supra* note 353.

in these neighborhoods, and lack of security is a continuing problem. Some type of historic district or a San Felipe “buffer zone” must be declared for these areas that are important in their own right and also entry points for San Felipe.

h. Linking the Casco to Other Historical Districts—Panama Viejo & Balboa/Canal Areas/Bella Vista & La Exposición

A major challenge facing the Casco Antiguo is the need to develop connections to other historic areas of Panama City, including the ruins at Old Panama. The World Heritage Committee designated the ruins of Old Panama as a World Heritage Site in 2003.³⁵⁵ Both sites (Old Panama and the San Felipe Historic District) form the UNESCO World Heritage Site, yet they are not managed together and are separated by a distance of 7.5 km.³⁵⁶ No promotional or education materials exist that link the two sites despite the history that connects them.

The San Felipe historic district also needs links to the neighborhoods that surround it, including El Chorrillo, Santa Ana, and Calidonia. These are all low income areas that were “extramuros” or outside the walls of the colonial city.³⁵⁷ They were also the site of rental buildings for Canal workers.³⁵⁸ The historic district of San Felipe needs a formal “buffer zone” that includes these neighborhoods. Although the “buffer zone” concept was proposed, it was not included in the 1997 or the 2002 legislation.³⁵⁹ Historical important structures in these areas must also be preserved

³⁵⁵ Archaeological Site of Panamá Viejo and Historic District of Panamá, *available at*

http://whc.unesco.org/en/list/790/multiple=1&unique_number=934.

³⁵⁶ *Id.*

³⁵⁷ TEJEIRA DAVIS, *supra* note 5, at 24, 47.

³⁵⁸ *Id.*

³⁵⁹ See Sections III(d) and III(e) of this manuscript.

and restored, and harmonious links should be developed with San Felipe. Moreover, urban planners must develop synergies between preservation of cultural patrimony in all these neighborhoods and urban renewals efforts.³⁶⁰

The neighborhoods of Bella Vista and La Exposición, constructed between 1915 and 1940, drew the elite from San Felipe.³⁶¹ They offer many examples of art deco and neo-colonial Mediterranean-style single-family and multi-family structures. However, their architectural heritage is rapidly disappearing today, victim of urban redevelopment, rising property values, and the real estate and development boom that is converting these neighborhoods into high-rise condominium zones.³⁶² They both lack historic designation, but clearly together with San Felipe, represent the diversity of the architectural patrimony of the city.

³⁶⁰ ROJAS, *supra* note 94, at 24.

³⁶¹ See Section I of this manuscript. Espino, *supra* note 42 at 18, Rodríguez Ferguson *supra* note 23 at 28-29; TEJEIRA DAVIS, *supra* note 5, at 24, 52.

³⁶² As the elite left San Felipe during the first half of the 20th Century for Bella Vista, it also abandoned Bella Vista and La Exposición for El Cangrejo and Paitilla in the 1960s-1970s. Most of the original neo-classical homes have been converted to apartments or demolished in recent years to make room for modern high-rise buildings. See Panama-The Visitor/El Visitante *supra* note 40. A citizens' group, Alianza Pro Ciudad has been advocating the preservation of Bella Vista's and La Exposición's architectural patrimony. The National Institute of Culture (INAC) declared the Bella Vista corregimiento a "Zone of Cultural Interest" in 2004 via Resolución No. 246 (Nov. 16, 2004). "Por la Cual se Declara un Área del Corregimiento de Bella Vista como Zona de Interés Cultural," Resolución No. 246DG/DAJ de 16 de Noviembre de 2004; Gaceta Oficial No. 25.201 (miércoles 22 de diciembre de 2004). However, this resolution is poorly implemented by the Municipality and the Housing Ministry and is purely precatory. *Restacemos Bella Vista y La Exposición*, ALIANZA PRO CIUDAD, Nov. 29, 2006, at 1-2.

San Felipe should also develop links with nearby Balboa and the "garden city" that was the hub of the U.S. administered Canal Zone. This area also represents a very different model of urban planning that should also be a protected part of Panama's cultural and architectural patrimony.

VI. Final Thoughts

Panama's Casco Antiguo incentive law (Decree Law No. 9 from 1997) appears to cause a very unique preservation success story in Panama City. The key has been the creation of a public-private partnership which has positive externalities for private investment in the Casco Antiguo. Although it appeared to begin slowly, today, ten years after its approval, most properties have now been sold. Restoration projects have increased significantly in recent years, and a new face is beginning to appear in the Casco Antiguo. Today, about 20% of the total housing inventory has been restored.³⁶³ Besides the legislation creating fiscal incentives, the 1997 designation of the Casco Antiguo Historic District as a UNESCO World Heritage Site has also stimulated restoration activities and provided guidance and security for the restoration process. This designation is also a source of great pride for Panamanians. Panama's early 21st Century real estate boom also appears to have spilled over to the Casco Antiguo. Foreign and domestic investors may also consider the Casco Antiguo an alternative type of real estate investment. Real estate values in the historic district today are among the highest in Panama City.

Despite these successes, many challenges still remain to successful preservation of the Casco Antiguo. These include the social issues, the management of traffic and increasing numbers of tourists, and the changing face

³⁶³ Espino, *supra* note 87.

of this neighborhood that is a symbol for all Panamanians. The dizzying growth of Panama City also presents numerous challenges for San Felipe. Some broader urban development issues in the metropolitan region also may adversely impact San Felipe; for example, the Cinta Costera project (land reclamation project along 3 km of Panama Bay), increasing levels of traffic, and the general urban decay of the adjacent neighborhoods of El Chorrillo, Santa Ana, and Calidonia. Clearly, the Casco Antiguo requires a broad "buffer zone." This isolated pocket of cultural patrimony must be better connected to other nearby areas in Panama City, such as La Exposición and Bella Vista, which lack adequately enforced historic preservation protection and are rapidly being altered and lost with the explosion of high-rise structures.

Restoration changes the nature of the Casco Antiguo from a low-income residential neighborhood to a wealthier community that is increasingly becoming a tourist attraction. Globalization is reaching San Felipe as visitors and residents arrive from all over the world. The old Spanish wall separated the inner settlement ("intramuros") where the elite resided from the lower classes outside the wall ("extramuros").³⁶⁴ The colonial wall was demolished in the late 19th and early 20th Centuries.³⁶⁵ However, it is being replaced with a new invisible wall that separates classes based on property values. Despite this, hope remains that San Felipe will continue to be a vibrant living urban neighborhood which will be home to people who represent the great cultural and social diversity of Panama. Hopefully, in 10 years it will still be possible to purchase a home-made bollo or tamale from the street vendor in San Felipe instead of a frozen one at the local gourmet deli.

³⁶⁴ TEJEIRA DAVIS, *supra* note 3, at 58, 59.

³⁶⁵ TEJEIRA DAVIS, *supra* note 11, at 80, 98.

