A legal guide to real estate investments in the Netherlands

Edited by David van Dijk and Paul Loeb

NautaDutilh

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This book provides an introduction to Dutch real estate law, one of the core disciplines of NautaDutilh.

About NautaDutilh

NautaDutilh is one of Europe's leading law firms. The firm's real estate practice is united in the Real Estate Services Group. The Real Estate Services Group focuses on all legal and tax disciplines relevant to the real estate sector – both domestic and cross-border – including construction law, real estate development, spatial planning, environmental law, investments and dispositions, finance, asset management, tax and tax structuring, regulatory aspects, energy, PPP/PFI, procurement, litigation and notarial services.

The Real Estate Services Group offers an integrated practice and seamless service in the real estate industry across the Benelux region, drawing on the collective strength and expertise of the firm's offices in Amsterdam, Rotterdam, Brussels and Luxembourg, as well as London and New York.

About the authors

The authors who contributed to this book are all associated with the Real Estate Services Group as associates or partners, and they all qualify as specialists in their respective fields in the Dutch real estate sector. Many of the authors are also associated with academic institutions. An overview of the authors can be found on page 234-237 of this book.

This publication could not have been realised without an enormous amount of help from the professionals of our firm's Real Estate Knowledge and Information Center. They support the real estate practice on a daily basis by processing large quantities of legal information and market data and drafting and amending the many models and systems that enable us to achieve our quality and service targets.

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Introduction to the Dutch real estate investment climate

The Netherlands as a political and economic safe haven

Thanks to its stable political and economic climate, Western Europe is a popular investment region for many real estate investors and financiers. That is particularly true of the Netherlands. With its seaports and airports, the Netherlands is one of Europe's most important logistics ports and transit regions.

Because many of the main transatlantic data connections between the United States and continental Europe are routed through the Netherlands, the Netherlands has retained its position as a logistics hub even in the digital era of the 21st century.

Dutch real estate market in 2014 - 2015

After lying low for a number of years following the global financial crisis, the Dutch real estate market flared back to life in 2014 and 2015, reaching new highs amid intense investor interest, mainly from abroad. Lured by bargain prices and improving economic fundamentals, international investors swooped on assets in all sectors, helping to send the year-end volume to over € 10 billion, double the figure for 2013 and not far off the € 11-12 billion seen during the boom years. Amsterdam was the fifth-largest investment market in Europe in 2014 with a volume of almost € 2.3 billion, up from € 1.6 billion in 2013.

The momentum continued into 2015 as investors continue to buy into the market upswing. The capital chasing assets in the Netherlands ranges from Anglo-American private equity to home-grown and international – particularly German – institutional money. Foreign investors dominated the scene in 2014, accounting for 65% of investments against 35% for domestic players, according to data compiled by PropertyEU. US capital was particularly prominent, capturing 27% of the total volume compared with 14% for German investors, traditionally the biggest investor group in the Netherlands.

Blackstone and Lone Star – the two big US hunters, along with Cerberus, of distressed assets across Europe – clinched some of the biggest Dutch deals in 2014 and were joined by German institutional stalwarts of the likes of Union Investment and Deka as well as newcomers Round Hill Capital and Patrizia Immobilien.

Despite the ongoing malaise in the sector, offices were the most sought-after asset class, accounting for 39% of the investment total, followed by rental homes (26%), retail (13%) and industrial assets (12%). In terms of locations, Amsterdam took the lead with € 2.45 billion of transactions, followed at some distance by Rotterdam (€ 700 million), The Hague (€ 400 million), Utrecht (€ 200 million) and Eindhoven (€ 100 million).

Lone Star and Blackstone both did business with CBRE Global Investors in the Netherlands in 2014 as the investment manager offloaded assets from its Dutch Office Fund (DOF) as well as residential and retail properties. Lone Star hit the market big time in July with its first-ever Dutch acquisition of 32 office buildings from CBRE GI's DOF for € 382 million. A few months later, the US investor swooped again with the purchase of five offices from Germany's IVG for a sum believed to be in the vicinity of € 70 million. It followed this up in April 2015 with a smaller office purchase in Amsterdam, but at a hefty discount. Lone Star paid about € 58 million for the INIT property for which the vendor, Pramerica, had paid € 100 million in 2007.

Not to be outdone, US peer Blackstone was also active in the market, acquiring 14 retail assets from CBRE GI on behalf of its European retail platform Multi Corporation. Financial details were not disclosed but the deal is estimated at around € 240 million. A year earlier, in October 2013, Blackstone had completed the acquisition of European shopping centre developer Multi Corporation in what at the time was one of Europe's largest real estate-related distressed transactions since the onset of the credit crisis.

Multi ultimately aims to build up a portfolio of between € 5-10 billion over a three-year period. The US asset manager was also active in the office and logistics sector, acquiring consumer goods group Unilever's Dutch headquarters in Rotterdam from UBS for around € 52 million, as well as the new head office of global IT services company Capgemini near Utrecht and three logistics assets from CBRE GI for just under € 100 million.

Blackstone and Lone Star were not the only investors to raise an American flag on Dutch soil in 2014. In February, opportunistic investor Mount Kellet Capital Management completed the joint venture acquisition of 10 shopping centres from listed retail specialist Corio at a discount approaching 30%. Founded in 2008 by two former Goldman Sachs partners, Mount Kellet works together with retail fund manager Sectie5 Investments in the Netherlands.

German investors Union Investment and Deka – no strangers to the Dutch market – also captured a fair share of single-asset activity in 2014. Union bought the ITO + SOM office complex in Amsterdam's Zuidas business district from Commerz Real for € 244 million while Deka acquired the spanking new, ultra-green office development The Edge in the same area for € 200 million. Together Union and Deka have virtually cleaned out all the prime office assets that were up for sale in Amsterdam's Zuidas. It was no coincidence that the headline on the 30 August 2014 edition of the Dutch newspaper Het Parool was in German: *"Herzlich willkommen an der Süd-Achse"* (A Warm Welcome to the Zuidas).

But the real surprise in 2014 was a rash of big residential deals involving cross-border money as government deregulation opened the market up to foreign capital. In total, foreign investors splurged more than € 1.5 billion on Dutch residential property in 2014, according to figures from advisory firm Capital Value. UK-based Round Hill Capital, an investor and asset manager with around € 4.4 billion of European property assets under management, was the largest newcomer on the scene, acquiring major portfolios from the likes of CBRE GI, housing association Wooninvesteringfonds (WIF) and Dutch 'bad bank' Propertize. It spent a total € 680 million on Dutch residential assets in 2014 and struck a further two deals in 2015 totalling around € 100 million.

Nevertheless, the biggest single transaction in 2014 was struck by Germany's Patrizia, which acquired a portfolio for € 578 million from ailing Dutch housing association Vestia as part of its strategy of becoming Europe's leading real estate investment company. Overall, the Augsburg-based company has acquired 5,500 housing units in the Netherlands since establishing a Dutch subsidiary in 2014 and appointing Peter Helfrich as its CEO. But lack of product has thwarted many growth plans.

The lack of available residential product in the market has been disappointing. Dutch housing corporations, the key potential vendors of existing stock, are failing to sell or are selling mostly to one another, thereby undermining government moves to liberalise the sector. The opportunities in other Dutch cities are particularly in the housing segment with rents between € 600 and € 950 per month. 'We're not planning to develop ourselves, but will work with sub-contractors. A key condition is that the demographics are favourable and that the product is sustainable, innovative and of good quality.'

International investors tend to favour the regulated segment of the market, which accounted for around 52% of all residential purchases in 2014, in contrast to Dutch institutional funds which focused on new-build properties in the Randstad urban agglomeration. Other foreign entrants to the market in 2014 besides Patrizia and Round Hill included Aventicum, BNP Paribas REIM Germany and Heitman.

In the industrial sector, particularly the light industrial segment, trading has also been brisk with a number of portfolios changing hands. Again, cross-border investors were among the most active buyers in 2014. Global private equity firm HIG Capital scored a hat trick of deals by buying three portfolios through its affiliate Bayside Capital, bringing the value of its Dutch portfolio to € 100 million. UK REIT Hansteen was also active, acquiring 370,000 m^2 of multi-let industrial space in a complex transaction from a distressed entity for € 106 million, or a gross income yield of 14.5%. Another recurrent name is MStar Europe, a joint venture between London-based M7 Real Estate and Starwood Capital Group. In August 2014, it picked up 10 warehouses in the Randstad area from fund manager Rockspring for € 71 million.

Two new trends seem to have shaped the Dutch market in 2015 compared with 2014: an increased use of leverage as financing has become more readily available; and more Asian institutional players have sought to channel funds into what they perceive as a stable, core market.

With restrictions being lifted on investment abroad by Asian insurers and pension funds, their allocation to real estate 'will grow quickly in the coming years', they noted. AXA Real Estate, acting for Chinese conglomerate HNA, picked up the 5-star NH Grand Hotel Krasnapolsky in Amsterdam for € 157 million in 2013. Asian investors also joined the bidding fray for a number of properties in 2014. Singapore's First Sponsor acquired an office building in Amsterdam from AEW Europe along with a number of Singaporean private investors, as well as (along with three other co-investors) the DeltaLloyd office portfolio including the Mondriaan Tower, for € 205 million. German fund manager Union Investment Real Estate appears to be sated following its buying spree in Amsterdam in 2014 which propelled it into one of the largest foreign commercial property landlords in the Dutch capital.

In January 2015, Union Investment acquired the new headquarters of law firm Stibbe in the Zuidas business district for € 54 million from developer Dura Vermeer. That acquisition followed the purchase of a neighbouring project, also being developed by Dura Vermeer, for Dutch coatings specialist AkzoNobel, for € 82 million or a yield of 6.2%. And in April, it added the ITO + SOM office complex to its clutch of assets in the Zuidas area for around € 244 million or a gross initial yield of 6.7%. The Hamburg-based company also acquired the 4-star Radisson Blu hotel in Amsterdam for an estimated € 90 million, or € 360,000 per room.

German investor Allianz Real Estate said it was partnering with an unnamed Asian party to access the booming Dutch residential property market by pumping € 600 million into local institutional platform Vesteda. The move is significant as it marks the first foreign equity infusion into Vesteda – which manages a € 3.7 billion platform. Characteristic of Asian players, many are operating below the radar. In January, an unnamed Japanese investor ploughed € 250 million into asset manager ASR's Dutch Prime Retail Fund, bringing foreign capital in the fund to € 785 million.

With prime yields compressing to ultra-low levels in their home markets – yields in Tokyo are at 3.25% and an even keener 2.8% in Hong Kong – Asian investors are looking to Europe for better spreads. But with yields also tightening in Paris and London (3.75%), Amsterdam currently offers the best spread internationally at 45 basis points.

An increased use of debt finance is also seen oiling the market in 2015. Compared with 2014, when the majority of deals was financed with equity, more transactions are leveraged in 2015 as debt is easier to obtain, whether from traditional bank or alternative sources.

Forecast 2016-2020

The Dutch economy is expected to maintain its positive momentum over the next five years, according to figures from the government's macroeconomic think-tank CPB. This forecast is based on a modest growth scenario under which demand for housing is seen rising from 7.1 million to 7.8 million homes between 2015 and 2020. As existing new-build sites will not be able to meet this demand, the country will face a shortage of homes, particularly in the mid-priced rental segment in the four biggest cities (Amsterdam, Rotterdam, The Hague, Utrecht).

In the office sector, demand for space is expected to rise to 73 million m^2 in 2020 compared to a current inventory of 70 million m^2 with 15% vacancy level. This demand is based on replacement needs totalling 3 million m^2 and new office space requirements of 2 million m^2. With 15% of the office stock currently being offered for lease purposes, substantial vacancy levels will remain at poorer locations. Demand will continue to focus on central locations in the 10 biggest cities with good public transport connections. To meet that demand, several complex and long-term redevelopments will be needed, resulting in temporary shortages of space.

The retail sector, which currently totals 53 million m^2 of space, will increase only slightly in size to 54 million m^2 by 2020, with growth being concentrated in the top 20 retail cities. PropertyEU expects shop vacancies in midsized Dutch cities and towns will increase, partly as a result of rising online sales.

Dutch legal landscape

Like the country's political and economical landscape, the Netherlands' legal landscape is characterised by stability and the rule of law. The Dutch law system is based on civil law, as are the German, Belgian, and French legal systems. Unlike countries like the UK, where common law forms the basis of the law, the civil law system is based on the belief that laws should be codified in advance instead of being created along the way by case law. This distinction makes the Dutch civil law system a very stable and balanced one.

Unlike in other civil law countries such as Germany, Belgium, and France, Dutch legal practice allows notaries to operate within the same law firm as attorneys at law and tax advisors. As a result, Dutch practice comprises extremely efficient and integrated procedures for investing in real estate. Attorneys, tax consultants, and civil-law notaries from a single firm usually work together for the buyer or the seller, with the civil-law notary's role being partisan on some occasions and non-partisan on others, depending on the agreements the parties have made in this respect.

Moreover, the Netherlands has an extremely reliable land register system. All notarial deeds regarding real rights to Dutch real estate are recorded in the land register, which creates a high degree of certainty with regard to the title (or another, limited entitlement) to Dutch real estate, as well as any restricted rights with which that property is encumbered and any special registrations imposed by the government, such as those having to do with environmental risks.

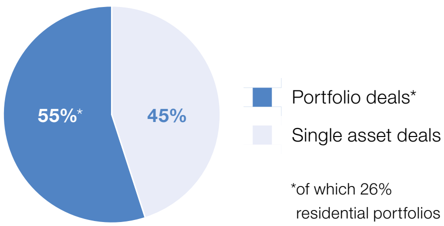
Source: PropertyNL

Facts & figures

Take-up figures

Office space >500 m²	Difference in %
Conglomerate Amsterdam	41
Conglomerate The Hague	min 12
Conglomerate Eindhoven	min 43
Conglomerate Rotterdam	89
Conglomerate Utrecht	min 30
Drenthe	530
Flevoland	73
Friesland	34
Gelderland	min 8
Groningen (province)	69
Limburg	min 74
Noord-Brabant	min 34
Noord-Holland	61
Overijssel	114
Utrecht (province)	min 32
Zeeland	27
Zuid-Holland	44
Total	**13**

Type of deals in %



Increase number of transactions

	2014 through Q3	2015 through Q3
Q1	123	151
Q2	124	164
Q3	139	146
Total	**386**	**461**

Source: PropertyNL Research

Investment Dutch market first 9 months

Investment Dutch market first 9 months	in € mln	% foreign investors	Office	Retail	Industrial (incl logistics)	Residential	Hotel	Other
2007	7471	40	4718	772	1131	850		
2008	3554	24	1450	1433	671			
2009	2978	21	983	591	806	478	47	73
2010	3879	21	1212	1515	313	675	29	135
2011	3273	28	855	901	553	580	207	177
2012	3368	22	1314	725	302	816	133	78
2013	2025	43	807	417	232	413	127	29
2014	6268	66	1956	847	842	1843	575	205
2015	6383	49	2153	1546	767	1421	354	142

Top-5 portfolio deals 2015

Portfolio deal	Purchase price (x € 1 mln)	Buyer	Seller
Wereldhave buys 9 shopping centres from Klépierre	730	Wereldhave	Klépierre Management NL
AccorHotels Group buys 11 hotels in the Netherlands	234	Event Hotels	Accor
Tristan Capital buys office portfolio Generali	212	Tristan Capital Partners	Generali Verzekeringsgroep
Ares buys office portfolio IVG	> 150	Ares	IVG
Eljans- retail portfolio	109	HS One/Maples Fiduciary	Elizen Vastgoed

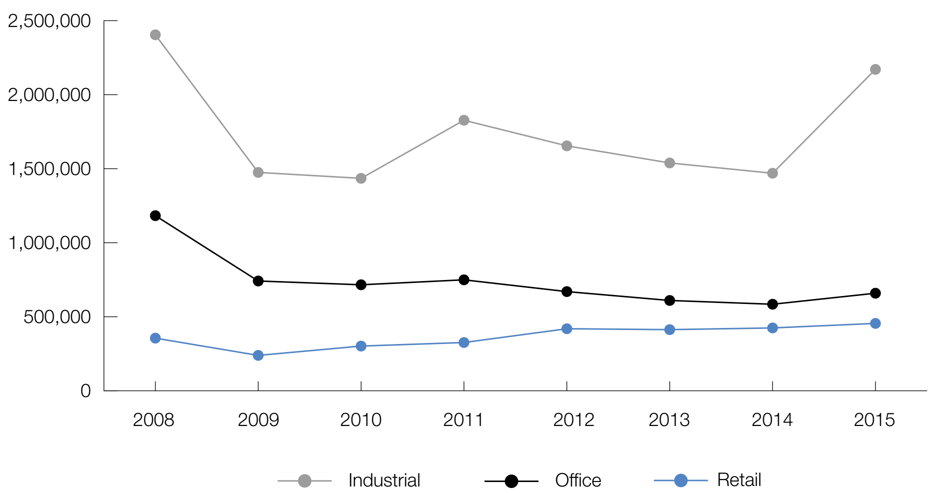
Source: PropertyNL Research

Facts & figures

Top-5 single asset deals 2015

Location	Description	Purchase price (x 1 mln)	Buyer	Seller
Amsterdam	Rokin Plaza	108	Vastned Retail	Rocking Plaza
Amsterdam	Number One (Hema headquarters)	89	MMZ Properties	Amsterdam Waterfront
Amsterdam	Haarlerbergpark	88	Moor Park Funds	ING Bank
The Hague	MegaStores	66	CQS (UK) LLP	ING Real Estate
Amsterdam	Former Palace of Justice	61	CTF Amsterdam	M7 Development

Take-up development Q1-Q3 2015



Source: PropertyNL Research

Factsheet 5 largest cities

- **Take-up office >500 m² t/m Q3 2015**
- **Take-up office >500 m² t/m Q3 2014**
- **Office contract extention >500 m²**
- **Office for sale >500 m²**
- **Investment volume (x € 1 mln)**
- **Largest office transaction in Q1**

Amsterdam

- 175.250
- 64.000
- 68.000
- 1.061.000
- 1.896
- ING Bank, 27.600 m², Frankemaheerd 2

The Hague

- 43.125
- 16.500
- 16.500
- 499.500
- 125
- Shell, 10.500 m², Oostduinlaan 2

Rotterdam

- 66.250
- 13.500
- 13.500
- 695.500
- 417
- Nationale Politie, 16.500 m², Marten Meesweg 35

Utrecht

- 29.000
- 5.100
- 18.200
- 401.000
- 185
- Propertize, 2800 m², Daalseplein 1

Eindhoven

- 175.250
- 64.000
- 68.000
- 1.061.000
- 1.896
- Dela, 2300 m², Oude Stadsgracht 1

G5 Total in m²

- 329.500
- 106.100
- 115.400
- 2.912.000
- 2.737

Source: PropertyNL Research

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