

# REAL ESTATE FOR WORK AND LIFE

By Ynze Kliphuis, real estate lawyer at Russell Advocaten. Photography: C. Vroom.

Embassies, Consulates and Diplomats enjoy diplomatic immunity. Nevertheless, Dutch law is applicable to real estate owned by diplomats and diplomatic missions in the Netherlands, because these premises — regardless of their diplomatic status — are Dutch territory. What is important to know before you buy or lease real estate in the Netherlands?

## DUTCH REAL ESTATE CONTRACTS

Dutch contracts are concise when compared to common law contracts, because basic rules are codified in laws, acts and regulations. These rules do not have to be repeated in the contract. Moreover, the meaning of a Dutch contract is not only in its wording, but also in the intentions, expectations and factual behaviour of the parties involved. To minimize conflicts, it is important to clearly record these in the contract.

## BUYING OR LEASING?

Buying is a long term investment. Prices for housing accommodation in Amsterdam and The Hague are rising. Here, buying is an attractive investment if the premises suit your needs for a number of years. Leasing offers more flexibility. This can be pleasant in case of a short stay or changing needs with respect to square meters. A Diplomat with a large family and staff will need more space than a young, single employee at the beginning of his or her diplomatic career. In addition, lessees only need to perform small daily maintenance activities. Office space will be abundantly available in the years to come. Those in search of a (common) office space should be able to negotiate competitive lease conditions.

It is important to verify in advance whether your purposes for the premises, correspond with the zoning plan (not all villas in Wassenaar may be used as an office) and whether municipal permits are required. Changes to the building that have an effect on the appearance of the premises (cleaning/painting the facade or changing single glazing into double glazing!) require a permit, especially if the premises are a registered monument or part of a conservation area, as is the case with most Embassies. Security measures for Embassies, such as alarms, cameras, fences and/or roll-down shutters, often require a permit.

## BUYING REAL ESTATE

For buyers it is important to do as much research as possible into the state of the premises (No defects? All permits?) and into its designated use according to the municipal zoning plan. The seller can only be held accountable for hidden defects if these defects prevent the normal use of the premises, e.g. foundations affected by woodworm or seriously polluted soil. For the purchase of real estate usually a written deed of purchase is used. A separate notarial deed of transfer is required for the transfer of ownership, which has to be registered in the land register. After that, the buyer will be owner and the premises are safe from seizure by a creditor of the seller.

## LEASING REAL ESTATE

In the event of leasing it's important to realize that tenants are allowed to make only minor changes to leased premises without prior approval from the landlord, for example paintjobs to the interior, putting a coat of arms on the façade or erecting a flagpole. Major changes, such as implementing thorough security measures (fences and/or bulletproof glass), removing walls or extending the premises, require the landlord's approval which can be replaced by the District Court's permission.

Therefore, it's wise to check in advance whether major changes have to be carried out. If both location and rent are attractive, it's worth considering to ask the landlord whether he gives permission for a major reconstruction. As mentioned above, a municipal permit may (also) be required for changes.

When property is leased, usually a deposit must be paid. If the lessee returns the leased property without defects to the lesser, the lesser has to refund the deposit. Therefore, the condition of the leased object has to be documented (with photos) at the beginning and at the end of the lease. We advise the lessee to be present on both occasions.

Office space is usually leased for a definite period of time. A fixed term lease will be terminated by operation of law, but the tenant must receive an eviction notice. The lease of office space for an indefinite term can formally be terminated one month ahead.

Residential accommodation is usually leased for an indefinite term. However, it is also possible to lease or let for a fixed term, for instance if you will stay in a different place for a short period of time. This must be laid down in a so-called 'diplomats clause'. Lessees of residential accommodation enjoy a lot of protection and it is difficult to evict them from their lodgings. ■



## CONCLUSION

Although Embassies and Consulates, and diplomats, enjoy a special status in the Netherlands, they have to deal with Dutch real estate law when it comes to their Dutch premises and houses. If questions or issues arise, it is advisable to get specialist legal advice.