

## LEGISLATIVE CHANGES IN THE RESIDENTIAL REAL ESTATE SECTOR IN THE NETHERLANDS FOR 2023

In an attempt to regain control over the residential real estate sector, Dutch Minister for Housing and Spatial Planning Hugo de Jonge has been introducing one legislative proposal after another. The adoption of these legislative proposals poses certain limitations on and serve as opportunities for investment in the residential real estate market. Stay ahead by staying informed on the latest regulatory developments in the Netherlands' residential real estate sector. In this briefing, we have identified seven regulatory developments and what they could mean for the residential real estate sector in the coming year. These trends will play a crucial role in shaping the future of the residential real estate sector in the Netherlands and understanding their impact is essential for sector stakeholders.

### Key issues

- Annual rent increase
- Extension housing valuation system
- Increased focus on sustainability
- Allocation of mid-rent housing by municipalities
- Rent reduction for lower-income tenants
- Introduction good landlordism
- Housing deals

### 1. Annual rent increase

Given the recent high inflation, Minister De Jonge sought to break the link between the consumer price index and the cap on the annual rent increase for nonsubsidized rent (CPI + 1%). As of 1 January this year, the maximum increase allowed is set at the lower of CPI and the average collective labour agreement index figure for the months of December to November as published by the CBS. In 2022, the CPI was 9.7% and the wage increase in that year was 3.1%. This means, for 2023, that the maximum rent increase will be linked to the wage increase + 1 percentage point, representing a maximum rent increase of 4.1%. This could mean as a landlord it may not be possible to fully pass-through higher prices due to inflation to your tenants.

### 2. Extension housing valuation system (WWS)

Major reform of the mid-rent sector is expected for 2024. On 27 February 2023 the Minister presented the legislative proposal affordable rent (*Wetsvoorstel Betaalbare Huur*) which proposes an extension of the housing valuation system (*woningwaarderingstelsel* or "WWS") - currently used only for the social housing rental sector - to the mid-rent sector. If Minister De Jonge's proposal is adopted, the housing valuation system will apply to housing up to 187 WWS-points, with an expected maximum rent of EUR 1021,02 (price level

January 2023). In addition, the annual rent increase for the mid-rent sector will be set at the average collective labour agreement index figure + 0.5%. The entry into force of the legislative proposal as of 2024 will not mean an immediate forced decrease of the rent amounts, as the new maximum rent amount takes effect when a new tenant moves in. However, in the long run it is estimated that over 90% of the rental housing stock will be regulated. Real estate investors would therefore be well advised to prepare for these forthcoming changes by optimising their rental income and the number of WWS-points.

### **3. Sustainability**

One way for investors to optimise the number of WWS-points is to make their portfolio more sustainable. Minister De Jonge's legislative proposal includes the modernisation of the housing evaluation system. Part of this modernisation is that energy labels will count more heavily. Applying deduction points for poor energy labels (E, F, G) combined with extra points for good energy labels provides an additional incentive to make homes more sustainable, and it could tip the scale in terms of the rental property falling under the mid-rent sector (which will be regulated in the near future) or the liberalised rent sector. Landlords are further incentivised to make their rental housing more sustainable by means of changes to the subsidy scheme for sustainabilization and maintenance of rented housing (*subsidieregeling verduurzaming en onderhoud huurwoningen* or "SVOH"). From 1 April 2023, the SVOH will be extended to also apply to private housing rather than just regulated housing and to monumental housing. Also, the requirement to have at least two energy-saving measures has been dropped.

### **4. Allocation of mid-rent housing**

The regulation of the mid-rent market is, of course, not new. Under the Housing Allocation Act 2014 (*Huisvestingswet 2014*) the municipalities can already adopt rules to ensure mid-rent housing is leased by people with a mid-rent income. Municipalities can do this by requiring a housing permit (*huisvestingsvergunning*) for certain designated categories of housing, and several municipalities such as The Hague, Amsterdam and Utrecht already use this option. Also, for municipalities there is the possibility to allocate housing with more WWS-points, in which case they can set a higher upper income limit. The Minister announced that he wants to encourage municipalities to use this instrument more. It is therefore important for residential market players to monitor the developments on a municipal level besides tracking changes to national legislation.

### **5. Rent reduction for lower-income tenants**

The mid-rent sector is not the only residential sector targeted by Minister De Jonge. On 1 March of this year, the legislative proposal on Rent Reduction 2023 (*Wetsvoorstel Huurverlaging 2023*) for lower-income tenants entered into force. With this legislative proposal, tenants with a rent above EUR 575.03 (price level 2023) and a low income (based on the registered aggregate income in 2021) will receive a rent reduction as of July of this year. The reduction applies to households living in social independent rental housing offered by housing associations and earning no more than 120% of the minimum income in accordance with the Housing Allowance Act. This rent reduction was used as a bargaining chip for the repeal of the landlord levy

(*verhuurdersheffing*) as of 1 January of this year, following nearly a decade of protest against this landlord levy, and will only impact housing associations.

## 6. Introduction good landlordism

With the adoption by the House of Representatives of the legislative proposal on good landlordism (*Wetsvoorstel goed verhuurderschap*) on 21 March 2023 the government is taking a step closer to not only addressing excessive rent but also other abuses in the letting of residential housing. The legislative act introduces a national standard for good landlordism in the form of general rules. To name a few of these general rules, under the legislative proposal a full cost break-down of the service charges will become obligatory, a maximum of two month's rent can be requested as a deposit for future residential lease agreements and the landlord needs to provide more information on the amount and conditions regarding the deposit. In addition to the general rules, municipalities can require a rental license (*verhuurvergunning*). In certain areas it is known that landlords take advantage of the socio-economical vulnerability of tenants, manifesting in excessive rent, overdue maintenance, overcrowding, squalor, discrimination, and harassment. By introducing a rental license, municipalities may impose additional requirements on the landlords in certain areas.

## 7. Housing deals

The government's plans are not only aimed at retaking control over the existing housing stock, but also to shape the future housing supply. On 16 February the legislative proposal to strengthen the control (*Wetsvoorstel versterking regie volkshuisvesting*) of public housing went into consultation, containing proposals on controlling the number of residential properties, locations, affordable housing (with a target of two-thirds of new housing for low and middle incomes) and a just distribution of housing. As part of this proposal, Minister De Jonge will conclude a total of 35 housing deals with provinces and municipalities in the coming period. These housing deals set out the number of houses to be built, for whom and where. Several housing deals have already been concluded, such as the housing deal with the province of Zeeland on 6 March for 16,500 new houses and the housing deal with the province of Limburg on 9 March for 26,550 new houses. Although the housing deals are not devoid of criticism - being called insufficiently specific and subject to many reservations - they may serve as a good road map for investors to identify new housing opportunities.

## Conclusion

All residential housing sectors are expected to be impacted by the forthcoming legislative changes. Investors must be well prepared with a comprehensive investment strategy to successfully navigate this changing legislative landscape. Our law firm is well positioned to assist clients in this regard, and – with dedicated teams with in-depth experience in finance, real estate, regulatory, M&A, and tax – can help support them in every step of their transaction. We advise investors on a regular basis on these topics, helping them to optimize their portfolio and identify opportunities. In doing so, our team leverages of our expertise and experience in the real estate sector and provides commercially focused legal advice and practical solutions.

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