

Essentials Dutch real estate law: Apartment rights, the home owners association (VvE) and the splitting deed



In the Netherlands, and certainly in the big cities, there are many apartments. If a building is split into different apartments, an apartment right is created. An Owners' Association (VvE) will then arise by operation of law. In this blog the essence of an apartment right and a VvE is briefly explained.

The apartment right arises when a building is split into different apartment rights. Often this concerns homes, but it can also concern offices, retail premises or parking spaces (or a combination thereof).

Under the law, all apartment owners jointly form an Owners' Association ("VvE"). The owners are jointly responsible for the maintenance and management of the building through the VvE.

An important document for the apartment owners and the VvE is the deed of division or splitting deed. Among other things, it specifies how many apartment rights there are and for which apartment rights may be used (for housing, business, parking, etc.). The deed also stipulates

how the common costs are distributed among the apartment owners (the fraction part). Although it often happens in practice, it is not allowed to deviate from this division of costs, unless a possibility has been included in the deed of division itself.

The division regulations are also included in the division deed. It determines , among other things, what the private parts are (ie what exactly belongs to each apartment right) and what the common parts are. Common areas often include stairwells, elevators, corridors, exterior walls, foundations and roofs. The division between private and communal may differ per deed, so it is important to keep this in mind.

In addition, many general rules have been included in the division regulations, such as regarding the VvE meetings and the composition of the board.

In addition, many VvEs also have internal rules (Huishoudelijk Reglement). These domestic rules usually regulate the more practical matters, for example about where the garbage should be thrown away or until what time music can be played. However, the internal rules may not deviate from the division deed and the division regulations.

Finally, it is good to know that the division deed must be interpreted fairly strictly and literally. This is because the splitting deed has to be clear for third parties. Anyone who takes note of the deed must be able to trust that these are the relevant rules of the VvE. This is particularly important for future buyers.

Nevertheless, it is always good if you want to buy an apartment to also request the minutes of the VvE meetings, so that you get a good picture of what is going on within the VvE.

Do you have more questions about apartment rights, the VvE or the deed of division? Contact M2 Advocaten.