



## **INSIDE STORY: THE NETHERLANDS**

### **SOLD: 'THE PIER OF SCHEVENINGEN' A DUTCH LANDMARK**

**This week (October 30<sup>th</sup>) the 'Pier of Scheveningen' will be sold, almost two years after the former owner of the iconic Dutch seaside landmark was declared bankrupt. The buyer aims to re-open the 'Pier of Scheveningen' for the public early 2015. With the sale of the Pier a new chapter in the evolving story around one of Netherlands' most famous building begins. Time to look back on the past chapter. From bankruptcy to sale, about the process of finding the right buyer with the interest of the joint creditors in mind while managing public expectation.**

Former owners of the Pier, limited liability companies '*De Scheveningsche Pier Vastgoed B.V.*' and '*De Scheveningsche Pier Exploitatie B.V.*' were declared bankrupt by the District Courts of The Hague and Amsterdam January 2013. Marc Udink (*Udink & De Jong Advocaten*) was appointed by the Courts as receiver in bankruptcy. The two bankrupt companies respectively owned and operated the landmark 'Pier of Scheveningen', a huge concrete structure covering about 25.000 m2 and stretching 380 metres into sea (recently voted one of ten [most beautiful piers in the world](#) due to its scale and unusual concrete structure).

#### **History**

When declared bankrupt in 2013 the Pier already had a, financially, troubled history. The first incarnation of the Pier, a hundred metres to the south from the current Pier, was destroyed in a fire during WWII. After being rebuilt in the 1950s, it had changed hands a few times before the Van der Valk family (shareholders and directors of the two bankrupt companies), famous in The Netherlands for their hotels and restaurants, bought the Pier in 1991 (in disrepair) for supposedly one Dutch guilder.

In the late 1990's the Van der Valk family made considerable investments and doubled the square metres by adding a second floor onto the Pier. Unfortunately, it turned out that the Van der Valk family was not able to make a return on the investment and eventually filed for bankruptcy in December 2012.

#### **Bankruptcy of an Iconic 'Public Building'**

Off course the bankruptcy of the Pier was covered extensively by Dutch national media and there was much speculation about the future of the Pier, both in the media and within the, understandably, worried The Hague and Scheveningen communities. The Pier has been, in several incarnations, although privately owned, a public space used and loved by many. Besides the media attention and

concern about the future of the Pier, many parties interested in buying the pier contacted either Udink, the municipality and/or the media. These were local, national and international parties, joint ventures and also crowd funding projects and (other) citizens' initiatives.

### **A Cancelled Auction and Further Negotiations**

Soon after bankruptcy Udink decided the Pier would be auctioned off publicly, due to the public concern with regards to the future of the Pier, the number of interested parties and most of all with the interest of the joint creditors in mind. This way the public could get involved, the process would be transparent for the public as well as for the many interested parties and the largest possible sum could be generated for the joint creditors. While the auction generated a lot of interest, none of the interested parties made a reasonable initial bid beforehand and as a result the auction was cancelled.

This cancellation of the auction signaled a second phase in the sale process. After the cancellation of the auction Udink stated in the media he would from then on take full control of the sale process and negotiations and declared the Pier would be sold within two years. He could now, in relative calm, talk with several of the more serious parties. Furthermore in this second phase the municipality became third party in the negotiations with the interested parties on the short list, whereas earlier they had acted as opinion maker, apparently not always with the interest of the Pier in mind and certainly not with the interest of the joint creditors in mind, and not acknowledging the future of the Pier was and is, while privately owned, of public interest. Later the approach of some politicians within the municipality changed back to that of opinion maker and put the deal, at that moment in a concluding stage, at jeopardy.

### **Third Party Interests**

At the moment of bankruptcy the Van der Valk family operated three businesses on the Pier. A casino, a restaurant and a theme park, operated in part in the limited liability company '*De Scheveningsche Pier Exploitatie B.V.*'. Besides the businesses they operated themselves they also rented out a considerable number of square metres to third party entrepreneurs. That part of operating the Pier was handled by the limited liability company '*De Scheveningsche Pier Vastgoed B.V.*'. The third party entrepreneurs operated a wide variety of businesses from a bungee jump center to a pancake restaurant to souvenir shops.

The Van der Valk businesses were closed soon after bankruptcy since it was clear further operating those would not be cost-effective. Most contracts with the lessees however were fulfilled by the receiver while those contracts generated funds and fulfilling those thus was in the interest of the joint creditors.

While the bankrupt estate fulfilled most of the contracts with the lessees, it could not provide them with normal cleaning, security and maintenance services. Also the receiver did not have the funds to comply with City and/or fire department regulations. This eventually led to the municipality closing the Pier for the public end of 2013 due to safety concerns (the Pier no longer complied with fire department regulations). That meant, besides the public being denied access to 'their' Pier, also the entrepreneurs, at that moment still operating their businesses on the Pier, had to close their businesses.

The closing of the Pier was the direct and insurmountable consequence of the (private ownership / public space) nature of the Pier and the bankruptcy in which off course the interest of the joint creditors are paramount.

### **Sale and the interest of the joint creditors while managing expectations of the public**

On Thursday the Pier will be sold. With the sale of the Pier the speculation will end and the future of the Pier will be further defined by the buyer (and the municipality).

During the last two years Udink had to manage the expectations of the public while acting in the interest of the joined creditors. Udink in the end found a reputable buyer the Municipality could agree with. And, more important in bankruptcy, the interest of the joint creditors has been served very well. The buyer will, in time, pay a total sum that covers all preferential and ordinary creditors. A great result overall.

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