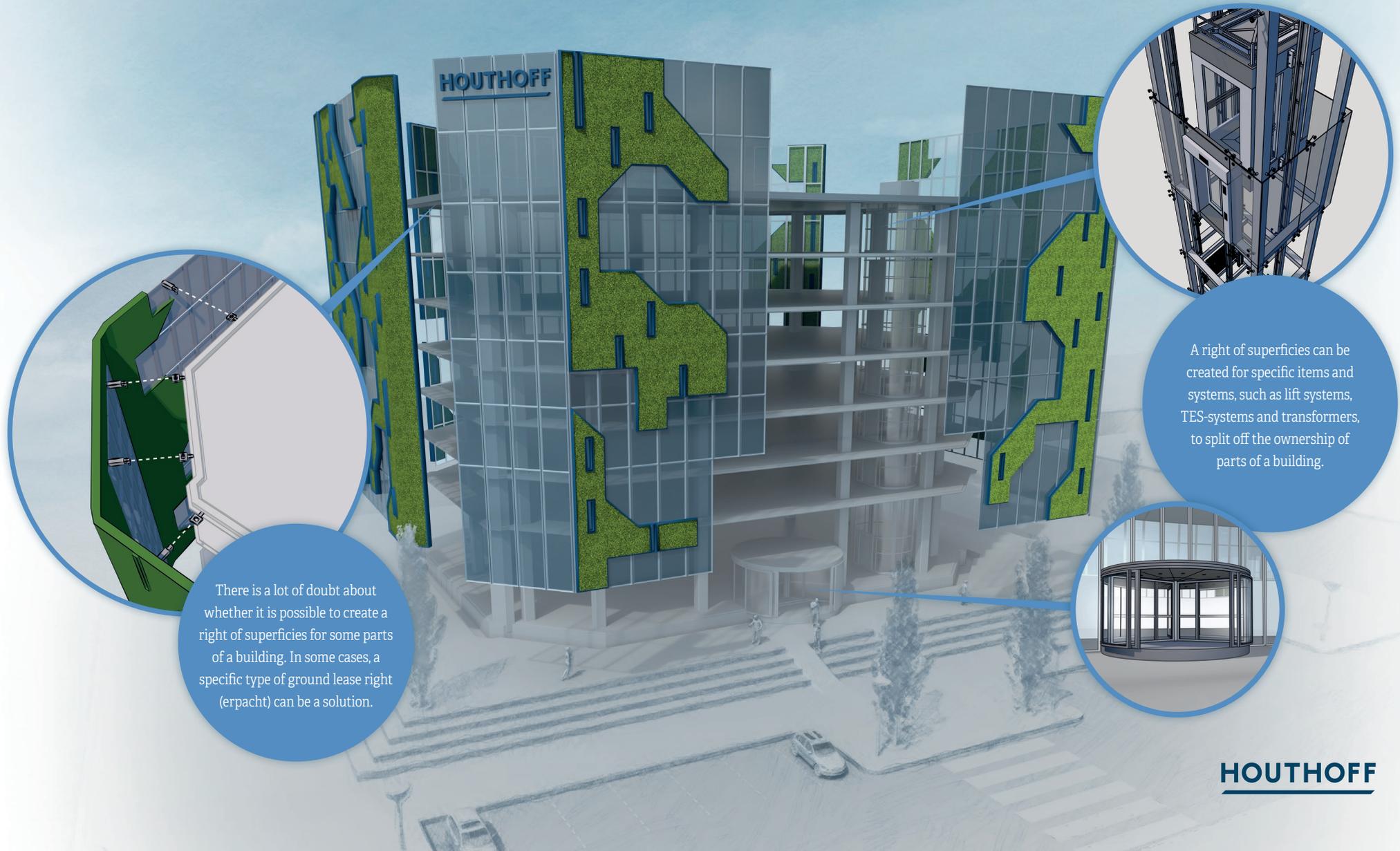


CIRCULAR APPLICATION OF THE GROUND LEASE RIGHT (*ERFPACHTRECHT*)



There is a lot of doubt about whether it is possible to create a right of superficies for some parts of a building. In some cases, a specific type of ground lease right (erpacht) can be a solution.

A right of superficies can be created for specific items and systems, such as lift systems, TES-systems and transformers, to split off the ownership of parts of a building.

CASE STUDY: A FACADE 'AS A SERVICE'

Facade suppliers want to offer facades as an ongoing service. In that context, the supplier wants to remain the “owner” of the facade. Because it is doubtful whether it is possible to create a right of superficies for a facade, the option of a ground lease right should be considered. Although a ground lease right does not give the supplier ownership of the facade, it allows the supplier to use the facade as if the supplier were the owner.

The arrangements for offering the facade as a service are laid down by the parties in an agreement, which, among other matters, provides for:

- the use of the facade;
- the maintenance of the facade;
- the financial rights and other rights and obligations; and
- the creation of the ground lease right.

The ground lease right is subsequently created by a notarial deed. The supplier then only has the right to the enjoyment and use of the facade.

It is also possible to create a ground lease right for other parts of a building. We would be happy to help you consider your options.



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