

LICENSING, REGULATION AND ALCOHOL STRATEGY

Real Estate Auctions

An auction is an accepted method of selling or buying property. This fact sheet outlines general information on the process involved in selling or buying real estate by auction.

Buying at auction requires more research and preparation than a traditional private sale. If you intend to buy at auction, you should attend a few auctions to familiarise yourself with the process. It is important that you examine the contract of sale and understand it before the auction to ensure that everything is in order, including having your finance and any inspection reports arranged.

The sales campaign leading up to an auction is generally similar to that for a private sale. The advertising campaign will include open house inspections. In the lead-up to the auction, the agent will gauge the level of interest of prospective buyers and will have an indication of potential attendance and bidding range on auction day.

Pre-Auction Offers And Inspections

Offers may be made through an agent prior to the auction. If an offer is accepted, an unconditional contract is usually signed. This does not allow for a cooling-off period or the sale to be made subject to conditions such as finance or inspections.

The property is usually open for final inspection immediately before the auction. This allows the prospective buyers to have a final viewing of the property and the associated paperwork and to make any last enquiries through the agent.

Auction Conduct

The *Auctioneers Act* regulates sales by auction in the Northern Territory. A person who sells by auction is required to hold an Auctioneer's Licence.

Auctioneers who are members of the Real Estate Institute of Northern Territory Inc. (REINT) are required to comply with a strict Code of Conduct, in the interests of transparency and fairness.

Before the auction commences, you can expect the auctioneer to state:

- the auction rules;

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- any additional conditions that may apply;
- whether bidding by the seller will apply.

A copy of the auction rules and any additional conditions should be made available for inspection prior to the commencement of the auction. A prospective bidder is advised to read these carefully before making a bid.

Reserve Price

Before the auction commences, the seller will establish a “reserve price”. This is the minimum price fixed by a seller, below which the seller is not prepared, and the auctioneer is not authorised, to sell. The reserve price is not disclosed. The auctioneer will promote competitive bidding to and beyond the reserve price.

Bidding by Seller

The seller of the property is entitled to bid at the auction or have a person bid on his behalf. This is commonly called a “vendor bid”. The *Auctioneers Act* requires that the conditions of sale notify this right to bid but does not restrict the number of bids. The auctioneer will announce the vendor bid before, or while making the bid. A properly declared vendor bid is legal and ethical.

The Act is silent on the issues of “bidder registration” and “dummy bidding”. An auctioneer however, must not engage in conduct that is fraudulent or misleading in the conduct of an auction or in the provision of auctioneering services.

Prospective Buyer’s Tips

Before bidding starts a prospective buyer should:

- decide on a definite upper limit, based in a firm offer of finance from lender, if applicable;
- arrange for professional property and pest inspections;
- check all legal documentation including the contract of sale through a solicitor or licensed conveyancer;
- organise a cheque to pay the deposit;
- organise a specialist or other person to act as advisor at auction and to bid on your behalf, if desired; and
- understand that the contract of sale is unconditional and that if successful at auction, there will be no right to withdraw from the contract.

Bidding at An Auction

Different auctioneers have different methods of conducting auctions. However, the auctioneer has a duty to encourage as many possible bidders to achieve the highest possible sale price.

The auctioneer may set the amount by which bids increase and these amounts may vary through the course of the auction. The bidder will make a bid at the amount stated or offer an alternative amount. The auctioneer may accept or reject that bid.

In order to bid successfully at an auction, the bidder should be clear about his betting limit, bid confidently and ask any questions of the auctioneer.

During the auction, the agent may indicate that he needs to confer with the seller to seek advice or instructions. Generally if the reserve price has been reached, or if the seller is prepared to sell at the bid offered, the agent will advise that the property is on the market.

If the reserve price is not met, the auctioneer will seek further bids. If the reserve price is still not met, the property may be "passed in".

Successful Bidder

At the final successful bid, the auctioneer will announce that the property is sold. If you are the successful bidder you will be required to sign the unconditional contract of sale and pay a deposit. This is usually 10% of the purchase price. The sale is finalised at settlement when the title and transfer documents have been exchanged and the balance of the purchase price has been paid. Remember that a contract of sale is unconditional and that there is no cooling-off period.

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