Bidders guide

Residential and rural property auctions

You will not be able to bid at an auction of residential and rural property in NSW unless you give the selling agent your name and address and show proof of your identity. Your details will be recorded by the agent in the Bidders Record and at the auction you will be given a bidder´s number. Registering for an auction does not mean you must bid. Registering simply gives you the right to bid.

Who needs to register?

If you are bidding to buy the property jointly with another person, for example, a spouse or partner, only one of you needs to register.

You need to register if you are bidding for another person or a company, and you need to show the agent a letter of authority from them, authorising you to bid on their behalf. This also applies if you are bidding on behalf of someone on the telephone.

If you are bidding for another person the letter of authority must include the person´s name, address and the number on their proof of identity (eg. driver´s licence).

If you are bidding for a company the letter of authority must be on the company letterhead and the ABN will be recorded in the Bidders Record as the company´s proof of identity.

Proof of identity

To register, you must present a card or document issued by government or a financial institution, that shows your name and address, for example:

- driver´s licence or learner´s permit
- vehicle registration paper
- council rates notice.

If you do not have this kind of proof of identity, you can use two documents that together show your name and address.

One must show your name and be issued by a government or financial institution, for example:

- passport
- Medicare card
- ATM/Eftpos card
- credit card or store card
- birth certificate
- citizenship papers.

The other must show your address, for example:

- utilities bill (eg. gas, electricity, telephone)
- real estate rental agreement
- statutory declaration stating your address.

When to register

You can register with the selling agent at any time prior to the auction, such as when you inspect the property, or on the day itself.

If you pre-register, you will still need to show the agent your proof of identity on auction day. The agent will then give you your bidder's number.

What happens at registration

The agent will write your name, address and the number of your proof of identity in the Bidders Record and, if you are bidding for someone else or a company, their name, address and proof of identity details. The agent will then give you your bidder´s number, which must be displayed when you bid.

What if I arrive at the auction late?

If you arrive after the auction has started and wish to bid, you will need to quickly find the agent and register or present your proof of identity, if you have pre-registered.

If you need to make a bid immediately, hold up your hand to let the auctioneer know you are going to make a bid after you have registered.

As soon as you have a bidder´s number, the auctioneer can accept your bids. Return your bidder´s number to the agent after the auction.

Your privacy

The agent is not permitted to show the Bidders Record to anyone, including the property owner. Only an authorised person from NSW Fair Trading is permitted to see the Bidders Record.

The agent must store the Bidders Record securely and cannot use it for any purpose.

Auction conditions

This auction is being conducted under certain conditions that are set by law.

The auctioneer will have these conditions on display before the auction so that you can read them. The auction conditions include:

- the highest bidder is the purchaser, subject to any reserve price
- the auctioneer is entitled to make one bid only on behalf of the seller
- before the auction, the auctioneer must announce that the auctioneer is permitted to make one bid on behalf of the seller
- the auctioneer must announce immediately before, or in the process of making the bid, that he/she is making a vendor bid
- the auctioneer can refuse a bid that is not in the interests of the seller
- the auctioneer has no authority to accept a late bid, that is, a bid after the fall of the hammer
- if there is a disputed bid, the auctioneer is the sole arbitrator and makes the final decision
- the successful buyer´s name must be given to the auctioneer as soon as possible.

Successful bids

If you are the successful bidder, you must sign the sale contract and pay a deposit on the spot, usually ten per cent of the purchase price. There is no cooling-off period when you buy at auction.

After the exchange of contracts, your solicitor or conveyancer will carry out various searches on the property. Your solicitor and the seller´s legal representative will then arrange for settlement at which time you must pay the balance of the purchase price.

Dummy bidding and collusion

It is illegal to make dummy bids at an auction.

The seller of the property is entitled to have one bid made on their behalf by the auctioneer. When the seller´s bid is made the auctioneer must announce it as a vendor bid.

If you make dummy bids for the seller, you may be prosecuted and fined up to $55,000. The property seller who asked you to bid can also be fined up to $55,000, as can the agent and the auctioneer if they were involved in the arrangement.

It is an offence to collude with someone to interfere with free and open competition at the auction. This offence carries a maximum fine of $55,000.

Co-owners and executors

A co-owner, executor or administrator or someone bidding on their behalf, may make more than one bid to purchase the property as long as:

- this is outlined in the auction conditions
- the auctioneer has announced this before the start of bidding at the auction
- the auctioneer announces before the start of the auction, the bidder registration number of any co-owner, executor, administrator, or someone bidding on their behalf.

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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