Best Practice Guide

Auction

DISCLAIMER: The information contained in this document is not intended to form professional legal advice or legal opinion on any particular matter.

1. General

1.1 When conducting the sale of a property by auction, members should not engage in any conduct which is misleading or deceptive or is likely to mislead or deceive. This principle applies to conduct prior to, at and after the auction.

1.2 Nothing in this Guide limits or diminishes members' obligations to report suspected misconduct or unsatisfactory conduct of a licensee to the Real Estate Agents Authority as required under the Real Estate Agents Act 2008 and/or its regulations.

2. Before the Auction

2.1 Members should not advertise a property as being for sale by auction unless there is intended to be an auction and unless a written auction authority form has been duly executed by or on behalf of the seller.

2.2 Members should provide a copy of this Best Practice Guide to prospective sellers prior to having them sign the auction authority.

2.3 Sellers should sign an acknowledgment of acceptance of the terms of this Guide, which should form part of the auction authority.

2.4 Prior to the auction, the member should make available for inspection the terms and conditions under which the sale of the property by auction will be undertaken.

2.5 If applicable, the member should specify in such terms and conditions of sale that the seller reserves the right to bid either personally or through an agent.

2.6 The member should make this Guide available for inspection prior to the auction.

2.7 Members should make reasonable endeavours to inform all interested parties if a property is to be withdrawn from auction or is to be sold prior to auction.

3. At the Auction

3.1 The auctioneer should conduct the auction at all times with integrity and in compliance with the law of New Zealand and this Guide.

3.2 The terms and conditions of sale should be on display and available for inspection, together with this Guide, at the auction. Any portion of the terms and conditions of sale relating to the description of the property will be read aloud by the auctioneer at the commencement of the auction of that property.

3.3 Before commencement of the bidding for a property, the auctioneer should announce whether the seller has set a reserve price. The reserve price, if any, should not be disclosed to bidders.

3.4 Before commencement of the bidding for a property, the auctioneer should announce whether the seller has reserved the right to bid one or more times at any level below the reserve price at the auction and, if so:

(a) Whether the member has been appointed to bid on behalf of the seller and, in such case, that all bids made on behalf of the seller will be made and declared by the auctioneer; or

(b) Whether the seller or some other person will be bidding on behalf of the seller and should identify that person in which case any bid made by that person should be declared by the auctioneer.

Neither the member nor any salesperson engaged by the member should make or assist any other person to make any bid on behalf of the seller in contravention of any announcement by the auctioneer pursuant to this clause. The member, or any salesperson engaged by the member, should immediately advise the auctioneer of any bid which they believe to be made in contravention of this clause.

3.5 Where the seller does not provide the auctioneer with a written reserve prior to the auction, the auctioneer should announce that the property is to be sold without reserve and no bid should be made by or on behalf of the seller at the auction.

3.6 In making a bid on behalf of the seller at the auction, the auctioneer should exercise his/her independent judgement.

3.7 Where in advance of the auction, any contractor/employee of the member or the auctioneer has been requested to bid for a prospective buyer, whether that buyer is present or absent, the auctioneer will announce that fact and identify those contractors/employees who will be so bidding.

3.8 The auctioneer should ensure that the amount of any bid is clearly stated.

3.9 The auctioneer may refuse any bid.

3.10 The auctioneer should resolve any disputed bid in accordance with the terms and conditions of sale governing the auction.

If such terms and conditions do not specify how disputed bids are to be resolved, then the auctioneer should resolve any disputed bid in accordance with the Particulars and Conditions of Sale by Auction 4th Edition (or any document approved by the REINZ in substitution thereof).

3.11 Under no circumstances will a bid by or on behalf of the seller be exercised by the auctioneer at or in excess of the seller's reserve price.

3.12 The auctioneer will always clearly announce if the property is about to be sold under the hammer.

3.13 Subject to the reserve price being reached, the highest bidder should be the buyer.

3.14 If the seller so instructs, the auctioneer will announce during the course of the auction that in the event of the property being passed in the highest bidder will have the first right of purchase of the property at the seller's reserve price.

4. After the Auction

4.1 If a property is passed in at auction, no post auction advertising for the property should make any reference to any seller bid made for the property at the auction.