

# Auctions

## Information Sheet

### **What is an auction?**

An auction is an open process at which buyers bid against each other to purchase a property. Once the reserve price is reached, the highest bidder becomes the successful buyer.

### **FOR SELLERS**

#### **Should I sell my property by auction?**

Your real estate agent<sup>1</sup> (agent) may recommend that you sell your property by auction, rather than by an advertised or negotiated price.

Auctions can be seen as the best way to sell quickly or achieve a higher price, as the auction process creates a sense of urgency and a feeling of competition between potential buyers.

This may or may not be the case and will depend on the property market at the time, how many similar properties are available to potential buyers and how desirable your own property is. Be aware that an auction does not guarantee that someone will offer to buy your property.

#### **Can I have more than one agent if I sell by auction?**

No. If you intend to sell by auction you will need to appoint a sole agent. You will need to sign an agency agreement with your agent, and agree on a marketing plan.

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<sup>1</sup> Real Estate Agent (agent) is a general term and refers to agents, branch managers and salespersons.



For more information on Agency Agreements and Sale and Purchase Agreements visit [www.reaa.govt.nz](http://www.reaa.govt.nz) or call 0800 for REAA (0800 367 7322) or (04) 471 8930.

### **Can I sell my property before the auction takes place?**

You can do this, but your agent must advertise in their marketing that “offers will be considered prior to auction”. If you do not want to consider offers in advance of the auction, the agent will specify in any advertising that you are “not selling prior”.

There are advantages and disadvantages in either approach. Requiring potential buyers to bid at the auction may get a better price, and a sale at auction is unconditional. However, the property may not sell on the auction day. Accepting an offer prior to the auction means you have a sale, but you may settle for less than an auction could achieve, and the sale may be conditional.

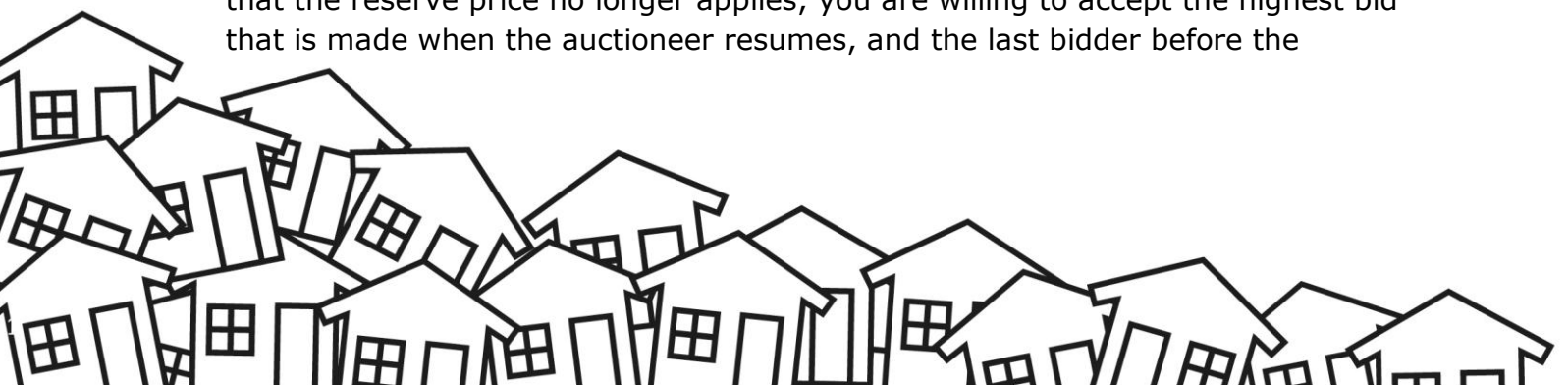
Prior to the auction you will need to establish a reserve price with the auctioneer and your agent. This is the lowest price that you are willing to accept for your property.

### **What happens at the auction?**

Once bidding passes the reserve price, the property is sold to the highest bidder. You will not have the opportunity to negotiate further with that person. You therefore need to think carefully and realistically about the reserve price. For example, you may want to think about the price you would be prepared to accept from a buyer if you were not auctioning the property. At the same time, you need to avoid setting the reserve price at such a high level that bidding does not come near it.

If the bidding does not reach the reserve price, the auctioneer will pause the auction and ask you for further instructions. At that stage you can do a number of things:

- If bidding has come close to, but not reached the reserve price, the auctioneer may suggest that you agree that the property be put on the market. This means that the reserve price no longer applies, you are willing to accept the highest bid that is made when the auctioneer resumes, and the last bidder before the



an auction was paused will be held to his/her bid. This approach may result in an immediate sale, but it carries a risk – once you have removed the reserve price and declared the property on the market, you must accept the highest bid, even if that is below your reserve price. You cannot negotiate on subsequent bids.

- You can tell the auctioneer that the property is to be passed in. This means that the auctioneer will tell the bidders that the auction is concluded, as the reserve price has not been reached. The auctioneer will usually make an attempt to generate further bids before closing the auction.
- If the property is passed in, you can negotiate with the person who made the highest bid, but you should be aware that the offer may not be an unconditional one. This negotiation will continue, through your agent, after the auction has closed. You do not have to accept any offer that is made during the subsequent negotiation, and if you cannot negotiate a price and conditions that are acceptable to you, you can discuss with your agent other options for marketing your property.

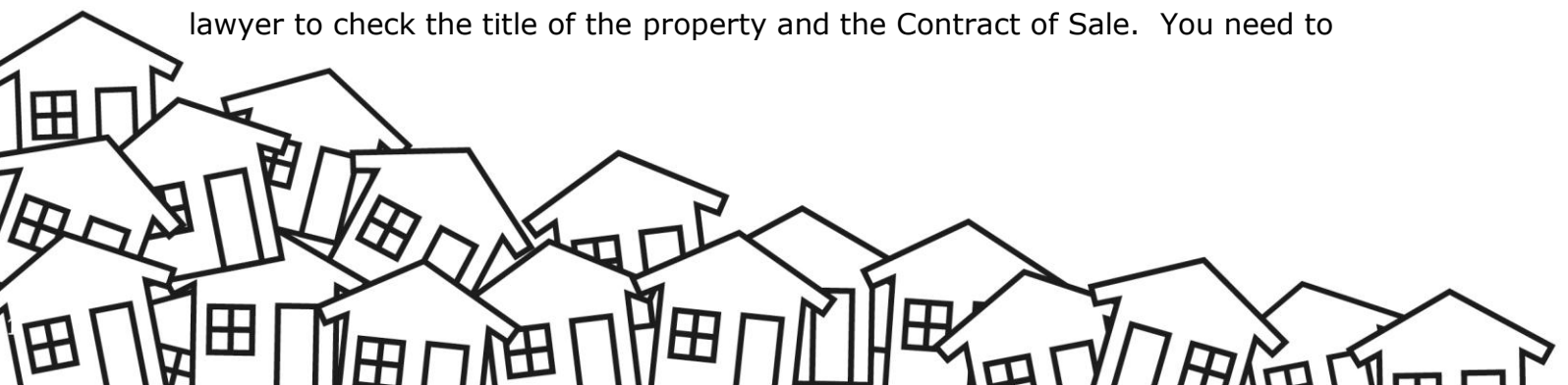
## **FOR BUYERS**

### **What do I need to do before an auction?**

If you are going to bid for a property at auction, you need to be prepared in advance. Remember, if you are the successful bidder at an auction, you are immediately committed to buy the property. You will not have the opportunity to take any legal advice, check aspects of the property, arrange a mortgage, or negotiate terms and conditions once the auction is finished.

Prior to the auction, you can inspect the property either by appointment or by attending an open home. The agent should provide you with a copy of the terms and Contract of Sale, which will set out what chattels are included with the property, and details such as the amount of deposit to be paid by the successful bidder and when the balance of the payment is to be made.

You may want to arrange a valuation of the property, a building inspection or obtain a Land Information Memorandum (LIM) report. You will also want to get your lawyer to check the title of the property and the Contract of Sale. You need to



arrange any finance required in advance. If you are the successful bidder on the day, you will have to pay a deposit immediately and sign the Contract of Sale.

### **At the auction**

The auctioneer will read aloud the terms and conditions of sale and state whether the seller has set a reserve price. The auctioneer will not reveal the actual reserve price. The auctioneer is working on behalf of the vendor and is looking to achieve the highest price for the property.

The auctioneer must also state whether the seller has reserved the right to bid during the auction. This is called **"vendor bidding"** and is allowed but only under limited circumstances. Vendor bidding is only allowed when:

- ✓ the property being auctioned has a reserve price
- ✓ the reserve price has not been met
- ✓ the auctioneer has made it clear that the bid being made is a vendor bid

Vendor bids must be clearly identified by the auctioneer and they will say something like "This is a vendor bid". They will not be able to use auctioneering jargon such as 'The bid is with me'.

Vendor bidding is sometimes used by the auctioneer as a way of starting off the bidding or trying to move bidding towards the reserve price.

A vendor bid can be made by the auctioneer or some other person working on behalf of the seller, such as the real estate agent.

Bidding for the property will continue until the reserve price is reached or beaten, at which point the highest bidder will be the successful buyer.

If the reserve price is not reached, the seller can instruct the auctioneer to stop the auction without selling the property.

### **What happens if the auction is concluded without a sale?**

If you are the highest bidder you may be able to negotiate with the seller through the seller's agent after the auction. At this point the terms and conditions of the auction no longer apply and you have the opportunity of introducing different terms



and conditions if you wish.

Information sheets that provide further information on the property buying and selling process ([including one about vendor bidding at auctions](#)) are available from **www.reaa.govt.nz** or by calling **0800 for REAA** (0800 367 7322) or (04) 471 8930.

## Real Estate Agents Authority

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To the best of the Real Estate Agents Authority knowledge, the information in this guide is accurate at the date shown below. However, the requirements on which this information is based can change at any time and the most up-to-date information is available at [www.reaa.govt.nz](http://www.reaa.govt.nz) [Version 1.2, 15 May 2014].

