

# HOW TO BUY A HOUSE BY AUCTION

# HOW TO BUY A HOUSE BY AUCTION



DISCLAIMER: This information is given as a guide only and relates specifically to residential property purchased by auction and using the standard ADLS Particulars and Conditions of Sale of Real Estate by Auction form. All information in this document is to the author's knowledge true and accurate. No liability is assumed by the authors and publishers for any losses suffered by any person relying directly or indirectly upon the information contained in this document. It is recommended that you consult a representative of The Property Practice Limited before acting upon this information.

# HOW TO BUY A HOUSE AT AUCTION

So, you've found 'the house', and it's being sold at auction. Sale of homes by auction has become very popular. At the moment there are often more potential buyers than houses available in popular suburbs, which can be challenging for buyers.

Buying a house is an exciting time, but can also be stressful. This is where we can help. We want to make your house buying experience as stress-free as possible.

The following outlines the general process for buying a house by auction, which will help you to get your head around the procedure and may give you an advantage at the auction.



## DO YOUR HOMEWORK

We urge you to do your homework before the auction. If you win the auction, you are 100% legally committed to buying the house.

With auctions, you bid unconditionally. This means that if you win the auction you buy the house without being able to include any conditions that would enable you to pull out of the deal if any problems arise.

*Homework to do before the auction:*

## 1 CHECKING THE LEGAL ASPECTS

### Title, Land Information Memorandum (LIM) and Auction Agreement

Generally, the real estate agent will provide you with a property information pack, which should include copies of the Title, the Council LIM and Auction Agreement for the property.

These are all legal documents so it is important for a lawyer to check them to make sure that there aren't any problems with the property. Common examples of problems that can arise are:

- (i) Unconsented building works that require builder approval and Council inspection to ensure legal compliance. This process can be expensive and may even involve additional building works to ensure that the house complies with building laws.
- (ii) With cross leased properties, there are often differences between the outline of the house/unit at the property and the plan registered against the Title. This presents an expensive legal problem. In order to fix this, the property needs to be re-surveyed and new legal documents lodged.

Even if you avoid fixing these sorts of problems at the time, when you go to sell the property, they are likely to become an issue and cost you money or even potentially lose you a sale.

Generally, the Title, LIM and Auction Agreement are the basic documents that you should get your lawyer to check before bidding at auction. We can do this for you in the most efficient way available by preparing for you a report called our TLC Report.

[Click here](#) to find out more about our TLC Report, or [order our TLC Report](#) online or [contact us](#) directly if you wish to discuss.

*Please note: If the property is under the Unit Titles Act 2010 i.e. operated by Body Corporate, there will be additional matters to consider that you should contact us to discuss.*

## 2 MONEY MATTERS

We urge you to have all your finances ready to go before you commit yourself at auction. So, get prior unconditional approval of finance from your bank beforehand. If you would like us to check your offer of finance before the auction, please [contact us](#).

An important point to note is that if you win the auction, you will have to pay a deposit immediately to the agent (which is generally 10% on the purchase price you are paying). Please note: You can't use your Kiwisaver funds as the deposit. Refer to our [Tips page](#) for more information about this.

## 3 OTHER HOMEWORK

### e.g property valuations, builders reports

There may be other aspects that you need to check such as obtaining a valuation on the property (which may be a condition of your finance approval anyway), getting a building report, or checking any lease or tenancy documents relating to the property. For instance, you don't want to be left in the situation of being landlord to a tenant with no valid tenancy agreement in place.

*Please note: You should make sure that you register your interest with the real estate agent because they must then let you know if any pre-auction offers are made by other parties.*



## THE AUCTION

Auctions can be challenging and the process of bidding daunting. There are a lot of unknowns, there may be a lot of other bidders and no guarantee of getting the house. You might like to google practical advice about techniques for bidding at auction.

*Please note:*

- You will be required to sign the Auction Agreement immediately following the auction, which is a legally binding contract, so have your lawyer check it before the auction so you know what you will be signing. You will also have to pay a deposit, which is usually 10% of the sale price.
- Your agent will forward the signed Agreement to your lawyer. You or the agent can upload your Agreement to us [here](#). We will then contact you to discuss your transaction and particular requirements.



## WON THE AUCTION?

CONGRATULATIONS!

We will sort out everything with the seller's lawyer.

We will also then complete an assessment of your circumstances to check what ownership structure is best suited to you, and whether there are any other matters that should be addressed alongside the purchase. For example, Wills, Relationship Property matters and Trust matters often arise when you purchase a property.

*There are some things you need to do:*

- Tell your bank that you won the auction. They will then prepare the loan documents and send them to us. We will then liaise with your bank directly from that point onwards.
- Organise house insurance at this point and get your insurance company to send us a copy of the insurance policy well before the settlement date. *Please note: You can arrange the insurance in advance but have it start from the settlement date.*
- Organise your telephone and power/gas accounts for when you move into the house.

We will take care of the rates and water, ensuring that the correct apportionments are made between the seller and the buyer as at settlement, so you don't need to worry about these things.



## SIGN DOCUMENTS

Before the settlement date you will need to sign some documents. Once everything is ready for signing, we will arrange to meet with you. You can visit us at our offices or we can meet you at a place that is convenient for you. It may even be possible to email you the documents to sign.

If you need to contribute funds to the purchase over and above the initial deposit and your mortgage, we will also discuss at this point how much extra money you need to pay and how to do this. This money needs to be paid into our trust account before settlement.



## BEFORE SETTLEMENT

You have the right to inspect the house before settlement to ensure that no damage (other than fair wear and tear) has occurred since you inspected the property initially. You should conduct this inspection at least two days prior to the settlement date so that we can deal with any issues that may arise. Let us know once you have inspected the property that you are happy for us to go ahead with settlement.

## SETTLEMENT

As soon as we have completed settlement you can get the keys! The ownership of the house will be officially transferred into your name.

On the day of settlement, we will liaise with the seller's lawyer and if everything is in place, we will pay the funds across to the seller's lawyer.

We know you will possibly be waiting for settlement with moving trucks. We try to complete settlement as soon as possible in the day so that you can get possession of the house. However, what time the settlement occurs is often out of the control of the lawyers as it depends on other parties' actions and how quickly we receive the loan money from your bank and other factors. Unfortunately it is impossible to anticipate what time settlement will happen.

We will call you once the settlement has gone through following which you can pick up the keys for the property and move in. Generally real estate agents hold keys on behalf of sellers.

Legal fees are usually paid by deduction on settlement. We will provide you with draft accounting statements beforehand.

## AFTER SETTLEMENT

You can sit back and enjoy your new home!

The lawyers notify the Council (and the water company) of the change in ownership after settlement and also ensure that your bank mortgage (if any) is correctly registered. We will send you copies of the relevant documents for your records and copies to your accountant if you wish.