

THE PUBLIC AUCTION:

A marketing tool for today's Realtor

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Constant changes in the real estate industry are forcing today's Realtor to investigate alternative marketing tools. The public auction, a relatively old method of selling real estate, has experienced a widespread revival in recent years. Increasingly large numbers of Realtors, developers, and private individuals are turning to the professional auctioneer to quickly and effectively handle their real estate transactions.

Real estate purchasers are becoming more aware of the auction sale, which is rapidly developing into the secondary real estate marketplace. Realtors should be familiar with the basic types of auction sales, and the procedures and advantages of buying or selling at auction. Auction promotions provide maximum exposure for listings and, when properly conducted, will produce top dollar prices in a limited period of time. Time is perhaps the strongest motivation for a seller to consider the auction method. A normal real estate transaction at auction can take as little as two weeks. A difficult listing, or a sale contingent on the sale of a client's old home may be perfect situations for public auction. Job transfers, divorce situations and estate related listings might also be appropriate for auction.

Many Realtors are unaware that auctioneers are willing and eager to cooperate on sales commissions. A referred listing is handled in the same manner at auction as it is in a privately negotiated sale. Realtors representing a purchaser at a sale can, on some occasions, split commissions with the auctioneer, although prior arrangements should be made with the auction firm.

The balance of this article will address auction sales in general, and more importantly, the advantages to the referring Realtor and the Realtor's client.

Types of Real Estate Auctions

Probably the most prevalent type of real estate auction is a sale conducted under judicial or court order. Foreclosure Sales, Sheriff's Sales, and some partition and bankruptcy auctions fall into

this category. Each type of judicial sale varies slightly and Realtor participation is limited by law.

Foreclosure auctions are strictly regulated as far as advertising, terms, and commissions charged. Generally, notice of auction must be advertised in a newspaper of general circulation published in the county in which the foreclosed property is located. The "legal advertisement" normally runs once a week for three successive weeks. The terms and conditions of the auction, legal description of the property, and information regarding the property improvements are contained in the ad. Additional promotional advertising is normally placed in major publications.

Most foreclosure auctions in the Baltimore metropolitan area are conducted on the premises. A deposit, which is advertised under the "Terms of Sale," will be required of the successful bidder at the completion of the auction. The balance of the purchase price is due when the sale is ratified, or approved, by the court, which usually occurs in 30 to 45 days.

In Maryland, unlike other states, there is no right of redemption by the debtor on the foreclosed property. Once the auction is completed and the sale is ratified, equitable title is transferred to the purchaser and legal title will pass at settlement. The property is sold free and clear of all liens unless otherwise advertised. Financing to the new purchaser is frequently available at below market rates.

Lenders do not like to foreclose mortgages, and will bend over backwards to avoid "buying-in" a property at foreclosure sale. Although the lender does have the option to bid at the sale, most would rather take a loss on the particular transaction than advance additional money in carrying costs should they become the high bidder. Third party purchasers are not uncommon at this type of auction, and often properties are purchased at below market rates.

Bankruptcy auctions are similar to foreclosure sales in that a distressed situation exists. Free and clear title is also guaranteed, but no ratification is required by the bankruptcy court. Settlement times, deposits, and terms of sale are advertised prior to the auction, as in the case of a foreclosure.

Partition sales involve marital disputes or partnership disagreements, and may or may not be conducted under a court order. In cases not supervised by the courts, Realtor participation may be invited when representing a purchaser. Realtors representing a seller, in this type of situation, can always cooperate with the auctioneer on a referral.

Sheriff's Sales are a uniquely different type of judicial action. The principal of caveat emptor, or let the buyer beware, cannot be emphasized enough. Only the right, title, interest and estate of the property owner is conveyed to the auction buyer. Any outstanding mortgages and judgments against the property will become the burden of the purchaser. A purchaser at a Sheriff's Sale must in essence do a title search, to find out what is owed against the property, in order to bid intelligently. The terms of the sale are generally for cash in full on the day of the auction.

Other types of auction sales, however, may be more appealing to the Realtor. Auctions on behalf of private individuals, developers, estates, trusts and attorneys all allow the Realtor participation at times. In cases where Realtor participation is invited, advance registration may be necessary.

Referrals of a Realtor to an auctioneer are handled in the same manner as a Listing Broker-Selling Broker arrangement.

### Procedures and Costs Involved

When a prospective auction property is referred to an auctioneer, the listing process is similar to regular brokerage operations. The client is personally contacted by the auctioneer and an evaluation of the property is made. The auctioneer will give the prospective client an opinion as to the probability of having a successful auction sale.

The property can be sold (1) at absolute auction, to the highest bidder, regardless of price; (2) with a minimum advertised reserve price; or (3) with a confidential, unstated reserve price. The minimum reserve price is stated in the listing agreement. If the reserve price is not achieved at the auction, the property will be withdrawn from sale and the seller will not be obligated to consummate the transaction. Conversely, at absolute auction, which potentially attracts a larger audience, the property is guaranteed to be sold for the highest bid.

An auction listing contract should state the amount of sales commission and other expenses that will be charged to the seller. Normally, the advertising for the auction sale is paid for by the seller. A set maximum expenditure for advertising should be spelled out in the listing agreement.

Auction sales, because of time restrictions, are generally more widely advertised than privately brokered transactions. Normal promotion time is two to three weeks prior to the auction date.

Included in the advertising campaign are newspaper ads, direct mail brochures, Internet listings and personal solicitations. Radio spots are sometimes used, but primarily in the promotion of a unique or unusual property. As wide a target market as practical is solicited. The terms of the auction sale, including any special financing arrangements or guarantees, are included in the promotional advertising. Inspections are scheduled and supervised by the auctioneer.

On the day of the auction sale, the property is again available for last minute inspection. The sale is started at a pre-advertised time and the terms of the sale are read aloud. An opportunity for questions is given to the audience. Bids are then solicited. The actual bidding procedure takes five to ten minutes. Bids can be made either orally or by gesture. Bidding increments vary, but are rarely less than \$100, and normally in the \$500 to \$1,000 range. The seller is usually consulted before the auctioneer finally sells, or "knocks down" the property. The successful bidder is then expected to post the pre-advertised deposit and execute a contract of sale.

Possession agreements are also pre-advertised. Normally, if the adjustment of expenses is made as of the date of sale, the purchaser is given immediate possession. If the expenses are adjusted to settlement, possession is delivered at that time.

An attractive feature to sellers is that auction contracts of sale rarely have contingencies. Purchasers normally pay all costs of settlement, including documentary stamps and transfer taxes. Closing dates are normally thirty to sixty days following the auction. The property is sold in "as is" condition.

The costs involved to conduct an auction sale vary in accordance with the type and value of the property. A difficult home to sell, for instance, may require more specialized advertising to attract a certain type of purchaser. A home in the \$150,000 to \$300,000 price range could require an advertising expenditure of several thousand dollars; while a home in the \$25,000 to \$50,000 price range could be properly promoted at a somewhat lesser cost. A unique commercial property, such as a restaurant, might require more emphasis on direct mail advertising and personal contact instead of directing the advertising budget solely to the newspapers.

For the Realtor, there is no definite rule of thumb to follow on advertising costs when discussing a potential auction sale with a client. The Realtor should, however, make the client aware that the advertising money expended is usually offset by the purchaser's payment of the settlement expenses.

Commissions charged by auctioneers also vary, but are normally in the same range as those charged by Realtors. In the event that the property is not sold at auction, a nominal pre-arranged withdrawal fee, plus the advertising costs, are charged.

### What to Look For in an Auctioneer

The auctioneer that you recommend as a referring Realtor is a reflection of your judgment and ability. The professional you select should be thoroughly trained in the real estate field. Many practicing auctioneers are fellow Realtors, and should be willing and able to document past achievements.

Auction schools are located throughout the country, but beware, nothing can take the place of experience. Currently, the National Auctioneers Association sponsors a three-year certification program, conducted by the Auction Marketing/Certified Auctioneers Education Institute at Indiana University. The CAI trademark designation is evidence that an auctioneer has combined education and experience credits to meet stringent Institute requirements. Affiliation with trade organizations, including the National Auctioneers Association and Auctioneers Association of Maryland, is a good indication that the auctioneer you select takes pride in his industry and considers himself a professional.

### Advantages of Real Estate Auctions

## The Public Auction

For the Realtor, the advantages of offering real estate at public auction are numerous. Maximum and immediate exposure is given to your listing. A large, new market of prospective purchasers becomes aware that the property is available. Listing time is limited to the date of the auction. Sellers have a firm contract of sale with no contingencies, and avoid payment of costly settlement expenses. Realtor participation in commissions is insured. Most importantly, your client's objectives of selling the property are accomplished, and you, the Realtor, can take credit for recommending the public auction.