



Tips for Choosing a Brokerage Firm That Fits Your Needs,

Either by way of Private Treaty or Auction

Experience:

If you are selling a home, and if you have a choice, find an agent that has home selling experience. Some large firms, you get whoever is on desk duty that day, they could be an experienced agent or someone just starting out.

Specializing:

If you are selling a home, get someone who specializes in home sales, or if you are selling a commercial property, get someone who specializes in commercial property.

If you are selling a farm, ranch, recreational property, you certainly don't want someone who does not know or have any knowledge in agriculture. A person specializing in agricultural properties or large sections of land is more knowledgeable when it comes to finding what is needed to sell the property. Things like soils, irrigation factors, well information, pasture potential, FSA information as well CRP information and the forms needed to obtain this information and the ability to read a plat map.

Most agents start out in the residential market and work their way into specializing in commercial or agricultural properties. So, when you think about it, a commercial agent or agricultural agent can sell residential because they have already passed through that process, whereas a residential agent is lost when it comes to commercial and agricultural specialties.

Private treaty and auctions

Private treaty - A private treaty sale is where the vendor sets the asking price and waits for someone who wants to buy.

Making an offer

If you have your finances in order, on finding the right property you are in a position to express your interest and make an offer if you think the price is too high. The agent will discuss your offer with the seller. You may be asked to pay an initial deposit. This does not secure the property for you but shows you are serious. The property remains on the market usually until the contracts are exchanged.

Contracts

All properties offered for sale must have a proposed Contract for Sale, which sets out the terms and conditions for sale.

You can get a copy of the contract from the marketing agent and ask your solicitor or conveyancer to look over it with you and explain what it contains.

The contract will include any special conditions for the sale, deposit requirements and settlement period. Ensure the settlement period suits your needs prior to committing to the contract. Look at what items are included (or excluded) in the sale.

The contract must also include a copy of the title documents, drainage diagram and the planning and zoning certificate issued by the local council which, among other things, will indicate whether the property is affected by flooding.

When selling price and conditions are agreed you each sign a copy of the contract and they are then swapped or "exchanged" and the deposit is handed over. Only when both the seller and the buyer have signed the contract and exchanged copies do you both become bound by the contract.

Cooling off period /Settlement

There is a cooling off period unless you have bought at an auction or you may be asked to waive the right to the cooling off period. You need to obtain legal advice regarding the benefits and obligations in waiving the cooling off period. The cooling off period (usually 5 business days) follows the exchange of contracts and allows time for searches, obtaining reports, and confirming finance. If you do not continue with the sale, you will lose 0.25% of the purchase price from the deposit, which is given to the seller. Discuss your rights and obligations under the cooling off period with your legal adviser.

Real estate agents can only exchange contracts in a private treaty sale with a cooling off period. Real estate agents may also exchange contracts where there is no cooling off period under auction conditions.

Any extension to the cooling off period requires the seller's agreement. While the seller may possibly agree to an extension, it is safer to presume they won't, so have the inspections, the searches and finance finalized as quickly as possible.

Settlement occurs usually four to six weeks after exchange of contracts. This period can be longer or shorter but the parties must agree to this and have the contract amended before exchanging.

At settlement the buyer pays the balance of the selling price. Adjustments are made for water and council rates, strata levies for units and any outstanding mortgages are paid out by the seller from the purchase price. The buyer becomes the legal owner of the property after settlement. Last minute issues can arise and delay settlement by hours or days.

You should arrange with the agent to inspect the property just prior to settlement.

What is an auction?

An auction is a public sale where buyers bid against each other to purchase a property. If the highest bid is acceptable to the vendor (the seller) a sale occurs on the fall of the hammer. As the buyer of the property, the highest bidder is required to sign the Contract for Sale and to pay the deposit as stated in the contract at the conclusion of the auction. The vendor also signs the Contract and exchange of contracts takes place immediately. There is no 'cooling off' period at an auction.

The property is 'passed in' if the highest bid fails to meet the seller's reserve price.

Tips for buying at auction

Be informed about property prices in the area you are interested in. Don't rely on an unrealistically low selling price range. It is an offence for an agent to falsely understate the estimated selling price. Agents' price representations are required to be based on their estimate.

- Obtain a copy of the contract and get advice from your solicitor or conveyancer. Check what comes with the property, called 'the inclusions' and what you will not get, 'the exclusions'.
- If you are interested in the property, let the agent know. You may consider making an offer before the auction.
- Contact your finance provider well in advance of the auction to make sure you have finance available if your bid is successful.
- If you are going to bid on a property it may be a good idea to arrange for professional building and pest inspections, surveys, strata searches etc to be undertaken prior to auction. Such checks can point to problems in the property that will cost money to fix. These reports will cost you money and you may not be successful at auction, however you should discuss the necessity for these reports with your solicitor or conveyancer.
- If you are a first-time buyer, go to a number of auctions while you are looking and get used to the process.
- If you intend to bid at an auction of residential or rural property you are required to register with the selling agent prior to the auction or on the day itself. You must provide proof of identity on auction day.
- A card or document issued by government or a financial institution showing your name and address is needed as proof of identity to register to bid. If you do not have this kind of proof you can use two documents that together show your name and address. Further information regarding proof of identity is available in the Office of Fair Trading Bidder's Guide which agents should supply to any potential bidder or from the Office of Fair Trading website.
- Registration of bidders is the recording of details of potential bidders in the Bidder's Record and the issue of a bidder's number to the bidder.
- All bidders must display their registration number when making a bid. The agent cannot accept a bid from a bidder who is not registered.
- If you are bidding, make clear and confident bids. Waiting until the last moment may not be a good idea as you could miss out.
- Know your price range and set an absolute limit. Don't let the excitement get to you.
- Remember to take your check book! If you are the successful bidder you will have to pay a deposit (usually 10%) when you sign the contract following the fall of the hammer.

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