Deadline Sale Protocol

A Deadline sale is in essence a simplified Tender, without the formality and with more flexibility. It is favoured over Tender for these reasons with Tender now being reasonably rare.

A property is promoted over several weeks inviting offers to be submitted by purchasers before a specified time on a specified date - the Deadline. After the Deadline, the vendor generally has five working days to determine which offer is most attractive, and if necessary to negotiate price and/or terms with one, or more, of the offerors. During this period purchasers agree not to withdraw their offers while the vendor considers them.

The offer is made on a pre-prepared standard Auckland District Law Society Sale and Purchase form to which any special requirements of the vendor have been added. A property LIM, copies of the Titles and other material required for an interested party's due diligence is often available from the agents early in the marketing campaign. The marketing time frame usually enables the purchaser to arrange their finance well prior to the Deadline.

The objective is, where possible, to enable purchasers to make their offer unconditional. However, this method of sale does allow purchasers to add clauses to suit their circumstances, such as being conditional upon the sale of their property.

As with all offers for purchase there are two components for a vendor to consider – price and conditions (terms). A lower, unconditional offer may be more acceptable to a vendor than a higher offer with conditions, as an unconditional offer gives certainty. It is therefore beneficial for an offeror to complete as much due diligence as possible before the Deadline and make their best offer.

Unlike a Tender where the offers must be submitted on the due date in a sealed envelope at a determined place, the flexibility of Deadline sale allows an offer to be delivered or emailed to the agent by the Deadline. The integrity of the Deadline sale method is based on confidentiality. Bayleys warrant that the only parties that will know the contents of an offer are Bayleys personnel involved in the process, the vendor and the vendor's advisors. This is a non-negotiable Bayleys minimum standard.

Whilst a deposit is not required to accompany the offer, if the offer is accepted, the successful offeror will need to be able to pay the deposit when the agreement is unconditional. This may be immediately the agreement is signed by all parties.

Unlike a Tender where the offers are all presented at that specified time and date, an offer in a Deadline Sale may be presented at any time prior to the Deadline if the seller agrees to consider it. So, if a purchaser elects to submit an offer prior to the Deadline, the vendor is free to accept that offer, provided that all other interested parties have been contacted and given the same opportunity.

This situation is rare but can occur when the vendor believes they will not achieve a better offer by completing the campaign. If an early offer is made and is at a level and on terms acceptable to the vendor, Bayleys will consult all other parties known to them who are engaged in due diligence on the property, making them aware an early offer has been received and allowing them the opportunity to also make an offer prior to the Deadline. Other parties are given a very short time frame (24 to 48 hours or as the vendor directs) in which to make their offer so it is prudent to complete due diligence early.

During the week following the Deadline an offeror may be contacted by the agent with suggestions from the vendor to negotiate changes to price or terms to make their offer more acceptable to the vendor. Equally however, an offeror may not be contacted. It is the vendor's choice and often a vendor may accept an offer immediately without consulting other parties. It is therefore most prudent for offerors to make their very best offer at close date. It may be their only opportunity.

In Summary:

- A "clean and simple" offer is always best
- An offeror may make an early offer if they wish, but it needs to be strong
- It is best to complete due diligence early
- The vendor may choose to negotiate with one, or more, of the offerors
- The vendor may choose not to negotiate with any of the offerors
- Always be frank with the agent – they can help you best when they are clear what it is you are trying to achieve