

Good to know about

BIDDING

in transactions of property, piece of land, co operative flats mediated by an Estate agent.

When purchasing a property, piece of land, or co operative flat the seller or purchaser are not committed to the written contract until it is signed by both parts. Before that both may change their mind without any claim from the other part.

The role of the Estate agent in a transaction

The role of the Estate agent is to be an impartial link between seller and purchaser. The Estate agent should therefore not work as a representative for either, rather strive to assist both parts.

Bidding is not regulated today

There are no set legislative rules on how bidding should be performed. Bidding may be performed in many different ways. Most common, a spontaneous bidding starts when there is several persons interested in the object.

Different forms of bidding

In practice the bidding may occur according to two different models.

In a *closed bidding*, the purchaser has a set time to leave their bids in writing. The Estate agent then accounts for the different bids to the seller. The purchasers are not aware of any bid from the opponent.

At an *open bidding*, the different bids are handled to the Estate agent, who regularly accounts the highest bid to the seller and to other purchasers. The purchasers are then given the opportunity to bid over each other.

The seller decides about the bidding

Together with the Estate agent the seller decides if it should be any bidding and in what form. The seller is however never legally constrained to any written arrangement about the bidding; the seller may whenever he/she wants to alter the structure of bidding or chose to end it.

Estate agents information about the bidding

Purchasers should be informed about how the eventual bidding should be formed. Everybody has the right to know which terms that are practice as

well as acquire correct and impartial information.

If the seller has decided certain conditions in the transaction, the Estate agent should inform the purchaser about them.

The seller decides whom to sell to and to what price

The seller does not have to agree in selling to the person leaving the highest bid. There is no legal restriction on the seller to agree to sell at the price given in the advertisement or any other form during the transaction.

The seller can when he/she wants terminate a started transaction

This is also applicable in transactions in which an Estate agent has been involved. The seller is not legally committed by a promise to sell even if it is in writing, and may change his/her mind any time before the written purchase agreement has been signed.

The estate agent may not take any personal decision regarding the transaction

The estate agent may not give any promises to any purchaser that wants to buy, before clarifying that it is the decision of the seller. The Estate agent may however give impartial advice to the seller in choosing between different purchasers.

The Estate agent must always forward bids

Until the purchase agreement is signed by the seller and purchaser the Estate Agent must take and forward all bids to the seller, even if the bid is not handed over according to the way decided. It is only the seller who is entitled to decide if a bid should be refused; the Estate agent can not do so.

The Estate agent does not have to give purchaser possibility to bid above another client's bid.

As it is the seller that decides about the bidding, one purchaser has not any unconditional right to bid over another. But it frequently lies in the interest of the seller to let the Estate agent raise the bids of the clients.

The purchasers rights during the bidding

- Anybody may give a bid either verbally or in writing. The Estate agent and the seller can claim the bid to be set at an exact amount.
- If a purchaser has given the highest bid does not mean that he/she is entitled to buy.
- A client may combine the bid with certain conditions.
- The person leaving a bid is not legally committed to stick to it, even if it is in writing.
- Clients can not expect continuous information from the Estate agent about bidding and price development.
- A purchaser has not the right to the information about who the other bidding clients are which bids that have been given or which circumstances that are discussed with other clients.

Information to clients when transaction is ended

A client is not entitled to any information other than that he or she has not been allowed to purchase.

(The Board of Estate Agents; May 2000)