

TERMS & CONDITIONS

What you should know about buying a home at The Sabine on Fifth Auction:

REGISTRATION

Registration is required to be eligible to attend and bid on auction day. To register you must complete the Auction Registration Form in the Auction Brochure or available online. Bidders should submit their Auction Registration Form to the Auction Information Office on site prior to Thursday, February 25, 2010, at 5 PM. Bidders may deliver the Auction Registration Form in person, mail or fax to 512.592.5062. You may also take your registration to the "How to Buy" Seminar.

Potential bidders are solely responsible for confirming the delivery and timely receipt of their completed and signed registration form by the Auction Information Office. A bidder's failure to timely register with the Auction Information Office may result in non-recognition of the bidder at the Auction. *Auction day registrants will be limited to the purchase of one home only.*

HOME INSPECTION AND SALE DOCUMENT REVIEW

Prospective buyers should view all homes prior to the auction and make a thorough inspection of the homes they are interested in bidding on. It is the responsibility of all prospective buyers to inspect the homes prior to the auction and satisfy themselves as to the physical condition.

The purchase and sale documents are available at the Auction Information Office for review. A partial list of documents include: (a) Residential Condominium Purchase Agreement; (b) Title Report or Commitment; (c) Condominium Information Statement; (d) Master Declaration; and (e) Other Property Owners Association Documents.

HOMEOWNERS ASSOCIATION

Purchasers will become members of The Sabine on Fifth Residential Condominium Association, Inc. and are assessed a monthly fee ranging from \$275 to \$580, based on floor plan and square footage (monthly average per square foot is \$0.2477). Please review Association Documents and complete details at the Auction Information Office.

COMPLIMENTARY GYM MEMBERSHIP

Seller will provide a one-year free membership (one bedroom homes will receive one free membership and two bedroom homes will receive two free memberships) at the Tower Health Club and Spa located at the Hilton Austin Downtown Hotel. The Club offers strength and cardio rooms, spa services, steam and dry saunas and pool with skyline views. Please see Auction Information Office for complete details.

DEPOSIT

To participate and bid on auction day, all approved registered bidders must present a separate cashier's **check in the amount of \$2,500** for each home that they have been approved to purchase. For successful bidders, the cashier's check will be used as a portion of the 3% deposit for purchasers of one home or 5% deposit on each home if you are purchasing more than one home. Cashier's checks must be made payable to **Heritage Title Company**. The balance of your 3% or 5% deposit should be in the form of a personal check. Please bring your personal checkbook with you.

AUCTION DAY PROCEDURES

Check in at registration and receive your bidder package which includes auction day announcements, information on the homes being auctioned, the order of the properties being auctioned and your bidder number. You will be required to show proof of your cashier's check and personal check; however, you will retain your checks until you are a successful bidder.

All homes have an unpublished reserve price (Unpublished Reserve Price) which means that the seller has established an unpublished minimum selling price. The Starting Bid is not the reserve price. In order to become the winning bidder of a home, a bidder must have the highest bid and meet or exceed the unpublished reserve price. The highest bid is subject to acceptance by the seller. With respect to a high bid less than the seller's reserve, the high bid, resulting purchase agreement/offer are subject to the seller's acceptance, counter-offer or rejection during the auction, in the contract room, and/or within 5 days following the auction.

If you are a successful bidder at the auction, an auction escort will request that you sign a Bid Confirmation Sheet acknowledging the final recognized bid and escort you to the contract room where you will execute the purchase documents and receive a receipt for your 3% or 5% deposit. Your cashier's check will be endorsed to **Heritage Title Company**. The balance of your deposit will be by personal check.

Approved multiple purchasers who wish to remain in the auction will be required to endorse and deposit a separate \$2,500 cashier's check with the auction escort **after each successful purchase**. Multiple home purchasers may remain in the auction; however, they must complete the purchase documents for all purchases immediately after completion of their final purchase.





SELLER ARRANGED FINANCING *

The seller has arranged excellent loan programs through Bank of America Home Loans or Colonial National Mortgage. All bidders, including those using third party financing, are required to be prequalified by the seller's preferred lender. For buyers who apply for financing provided by the preferred lender, the sale will be contingent upon the buyer's ability to qualify for financing. If the buyer does not qualify, his or her Good Faith/Earnest Money Deposit will be returned, less any escrow/cancellation fee. Neither the seller nor the auctioneer make any representation or warranty that the prospective buyer of a home will qualify for purchase financing from the seller-approved lender and/or third party financing. Financing is subject to buyer's credit approval and completion of all loan documents and property appraisal.

A Bank of America Home Loans or Colonial National Mortgage representative will be available at The Sabine on Fifth Auction Information Office daily. They may also be contacted at:

Mark Wilkerson
Mortgage Loan Officer
Bank of America Home Loans
9600 North Mopac Expressway,
Suite 100
Austin, TX 78759
Office: 512-691-1039
Mobile: 512-294-4599
Fax: 866-517-6238
mark.w.wilkerson@bankofamerica.com

Sheri L. Cowan
Mortgage Banker
Colonial National Mortgage
A Division of Colonial Savings, F.A.
11149 Research Blvd., #290
Austin, TX 78759
Office: 512-904-1193
Mobile: 512-750-8833
Fax: 512-904-1196
sheric@colonialsavings.com



*CLOSING INCENTIVE FOR SELLER-APPROVED LENDER:

Buyers who obtain financing through Bank of America Home Loans or Colonial National Mortgage and close escrow within forty-five (45) calendar days of the auction will be credited \$1,500 toward non-recurring closing costs (based on lender guidelines) by seller at the close of escrow.

THIRD PARTY FINANCING

Buyers who choose to apply for financing with any lender other than Bank of America Home Loans or Colonial National Mortgage ("third party financing") must provide Kennedy Wilson with a prequalification letter, acceptable to Kennedy Wilson, from their lender with their Auction Registration Form.

FIRST-TIME HOMEBUYER CREDIT

A federal tax credit of up to \$8,000 has been extended to first-time homebuyers, who sign a purchase agreement by April 30, 2010, and close escrow by June 30, 2010. For complete details visit the Auction Information Office and consult your tax advisor.

CASH BUYERS

Buyer's who choose to pay cash for their purchase must submit proof of liquid funds to Kennedy Wilson.

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BROKER COOPERATION

Participation of Texas licensed real estate brokers is encouraged. **A commission of 2% of the high bid price** (high bid amount does not include Buyer's Premium) will be offered to all qualified, registered brokers. All commissions will be paid at the close of escrow. In order to qualify for the broker cooperation commission, brokers must comply with the following requirements:

- a) The prospective client ("Bidder/Buyer") must register their Broker on their Auction Registration Form at the time of their initial registration no later than Thursday, February 25, 2010. **No Broker registration will be accepted on auction day.**
- b) Brokers must accompany the Bidder/Buyer to the auction and, if successful, through the entire purchase process at the auction on Sunday, February 28, 2010, and execute the Cooperating Broker Agreement.
- c) A Bidder/Buyer who does not comply with subparagraphs (a) – (d), inclusive, shall assume liability and be solely responsible for payment of any commission due and owing to its Broker.
- d) Through your attendance at this auction you acknowledge and agree that Kennedy-Wilson Austin, Inc. is the exclusive real estate agent of the seller and is not acting as the real estate agent for or representative of the Buyer.

CLOSING

All sales must close on or before Tuesday, April 13, 2010 (45 days after the auction), unless extended by the Seller in writing. All buyers will be required to pay customary

closing costs including, but not limited to: escrow fees, recording fees, normal pro-rations, title fees, new loan fees, all documentary transfer or preparation fees and Homeowners Association Fees (if applicable). No contingent buyers will be allowed to purchase.

EXTENSIONS

In certain cases, the seller, in its sole discretion, may grant a fifteen (15) day extension of the closing date for a non-refundable extension fee of \$1,500 in a cashier's check payable to seller. This fee will not be credited to the purchase price. Requests for extensions must be made in writing at least five (5) calendar days prior to the scheduled closing date. All extension requests are evaluated by the seller on a case-by-case basis and are solely at seller's discretion. Extensions are granted only to buyers who have demonstrated good faith in attempting to close escrow by the scheduled date. No sale will be contingent upon receiving an extension from the seller.

DEFAULT OF BUYER

If a buyer defaults on the terms of the Residential Condominium Purchase Agreement, seller may retain buyer's \$2,500 cashier's check or up to 3% of the purchase price pursuant to the terms of the Residential Condominium Purchase Agreement.

ADDITIONAL TERMS AND CONDITIONS

- a) All homes have an unpublished reserve price (Unpublished Reserve Price) which means that the seller has established an unpublished minimum selling price. The Starting Bid is not the reserve price. In order to become the winning bidder of a home, a bidder must have the highest bid and meet or exceed the unpublished reserve price. The highest bid is subject to acceptance by the seller (see "Subject to Confirmation" section below). With respect to a high bid less than the seller's reserve, the high bid, resulting purchase agreement/offer are subject to the seller's acceptance, counter-offer or rejection during the auction, in the contract room, and/or within 5 days following the auction.
- b) The purchase price for the home shall be equal to the sum of the amount of the winning bid plus 4% (Buyer's Premium) of the amount of the winning bid. For example, if the winning bid is \$200,000, then the purchase price for the unit would be \$208,000, representing the sum of \$200,000 plus 4% of \$200,000 (\$8,000) for a total of \$208,000. The amount added to the winning bid shall be used to pay seller expenses, auction marketing costs and other general auction expenses incurred by the seller and/or auctioneer in bringing the auction properties to market.
- c) In order to purchase a home at the auction, bidder must be acknowledged by the Auctioneer as the Winning Bidder (the bidder to whom the Auctioneer acknowledges the home as being "SOLD" to) and such home is therefore not identified as being sold subject to confirmation (see below).
- d) With respect to a winning bid that is not immediately accepted by the seller, the Auctioneer will inform the winning bidder that acceptance of their winning bid is "Sold Subject to Confirmation." The winning bidder acknowledges and agrees that winning bidder's purchase/offer is subject to and contingent upon the seller approving the resulting purchase/offer, acceptance, counter-offer or rejection during the auction, in the contract room and/or within 5 days following the auction
- e) No claim will be considered for allowance, adjustment, or rescission based upon failure of the property to correspond to any particular expectation or standard (except the Preliminary Title Report).
- f) Bidding increases will be in such increments as the Auctioneer in his sole discretion directs. In the event of a dispute between bidders, the Auctioneer shall make the sole and final decision to either accept the final bid or reoffer and resell the property in dispute. The auction will be recorded, and if any dispute arises following the auction, the Auctioneer's records shall be conclusive in all respects.
- g) Title Insurance is available for each home, insuring the title of such home to be in fee simple, subject to no encumbrances except for current taxes and assessments, easements, right-of-way, reservations, covenants, conditions and restrictions of record, and printed exceptions in the standard form title insurance policy. A copy of the Preliminary Title Report (or title commitment) for each home may be inspected prior to the auction.
- h) Floor plans, sizes and square footages set forth for the homes may vary and are approximations only, based on the best information available. Kennedy Wilson and Seller do not guarantee the accuracy of the square footage or other information regarding the condition and features of the property provided by the Seller or obtained from public records or other sources. Each bidder is advised to independently verify the accuracy of all information through personal inspections with appropriate professionals and to rely on their own research at their own cost. Model homes may contain furnishings, amenities and construction details that may not be present in the homes available for purchase. The Seller or the Auctioneer make no representation or warranty that the homes available for auction purchase will contain any such furnishings, amenities or construction details.
- i) The seller and Auctioneer reserve the right to refuse admittance to or expel anyone from the auction premises for interference with auction activities, nuisance, canvassing, collusive bidding, bid-rigging or other reasons.
- j) The auction will be recorded. Bidders' attendance at the auction shall constitute Bidders' consent to any audio and/or visual recording.
- k) No auction attendees may take audio or visual recordings of the auction.
- l) The seller has the right to postpone or cancel the auction in whole or in part, in its sole discretion, and to modify or add any terms and conditions of sale and to announce such modifications or additional terms and conditions either prior to or at the auction. Written and oral auction announcements shall take precedence over prior printed information; however, the executed Residential Condominium Purchase Agreement will evidence all understandings and agreements between buyer and seller and will be in all respects controlling.
- m) No buyer shall assign his/her rights under the Residential Condominium Purchase Agreement to any other party and any attempted assignment shall be void.
- n) Except where prohibited by law, the Auctioneer may, on behalf of seller, bid at any time up to the amount of the unpublished reserve price for each home.
- o) Homes shall be sold "as is". Prospective buyers should examine the homes and all supporting documentation carefully as each bidder is responsible for making his or her evaluation of the homes and may not rely on the Seller or sales agents.
- p) Kennedy-Wilson Austin, Inc., a Texas Real Estate Broker, is not acting as agent for the buyer in any capacity and is acting in the capacity exclusively as the seller's agent.
- q) OFFER VOID WHERE PROHIBITED. Brochure will not be mailed to residents of any state in which this offering is not in compliance with the real estate laws or other laws of that state.

Please Note: All homes sold at Auction will have a 4% Buyer's Premium added to the winning bid amount to establish the final purchase price.