

# NDA'S GUIDE FOR PROBATE PUBLIC AUCTIONS

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## PROSPECTIVE BUYERS MAY PARTICIPATE BY ATTENDING A PUBLIC AUCTION AND SUBMITTING LIVE BIDS AS OUTLINED IN THE BROCHURE AND ON BIDNDA.COM.

On the day of the Auction, Prospective Buyers are required to do **ALL OF THE FOLLOWING**:

- (1) Register with the Auctioneer
- (2) Have in their possession a \$10,000 Cashier's Check made payable to **NDA INC.**
- (3) Have in their possession a blank personal or business check to be used by the successful bidder to make up the balance of the required 10% deposit.
- (4) Have received, read, understand and agree to all Terms and Conditions of the Auction prior to bidding.
- (5) Must accept that the Property is offered AS-IS WHERE-IS, with no warranty express or implied.
- (6) If the successful bidder, must provide all information requested in the Seller's Offer to Purchase Contract and related documents and disclosures, by completing all blanks and sign the Seller's Offer to Purchase Contract and all related documents and disclosures.

If the prospective purchaser is represented by an agent, **THE PROSPECTIVE BUYER AND ITS AGENT MUST BE PRESENT AT THE PUBLIC AUCTION AND SIGN THE REQUIRED FORMS** which must be attached to and included with the bidder's Offer to Purchase Contract received by NDA INC. Agents may not be added to the forms after auction day and after NDA INC's receipt of the prospective purchaser's Offer to Purchase Contract. Agents may not register their clients.

All offers to purchase any Property are subject to the Public Administrator's approval and Probate Court Confirmation (Court hearing approximately 45- to 60-days following the offer deadline date subject to the Court's schedule).

## Frequently Asked Questions for Probate Public Auctions

### 1. Can I purchase the property prior to the auction?

No, there will be no sale prior to the auction.

### 2. When can I register to bid?

Registration is required on Auction Day at the property (or as noted in the brochure). Arrive at the property 30 to 60 minutes before the auction begins and sign in with the Auctioneer and receive your bidder card. See "What do I need to bring on Auction Day" below for additional information.

Note: There is no pre-registration prior to auction day.

### 3. How do I bid at a Probate Auction?

If you would like to bid at a probate auction, you must do all of your own due diligence prior to placing a bid. Due diligence shall include an inspection, reviewing all available information and any research you would like to conduct. Auction day bids are not contingent upon post auction due diligence or inspection of any kind, even in those instances where a property is not available for personal inspection (occupied, boarded-up, etc.).

Once you have satisfied yourself that you will purchase the property in its AS-IS WHERE-IS condition, all you need to do

is show up at the time of the Auction with a cashier's check in the amount of \$10,000 made payable to NDA INC, along with a blank check personal or business check. The auctioneer will register you and provide you with a bidder card. It's a live auction that will take approximately 5 minutes.

### 4. If I am the high bidder on Auction Day, how do I provide NDA INC with my 10% deposit?

NDA INC collects the 10% deposit at the auction consisting of the \$10,000 cashier's check and the remaining balance on a personal/business check. For instance, if the high bid is \$700,000 NDA INC will collect \$70,000 (in the form of a \$10,000 cashier's check plus a \$60,000 personal/business check).

### 5. When do you deposit my cashier's check and personal/ business check?

The checks are deposited into NDA INC'S Client Trust Account three (3) business days following the auction.

### 6. Does the high bidder on Auction Day automatically get to purchase the property?

Probate sales are subject to the Administrator/Guardian's

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right to accept, counter or reject all offers and bids are subject to Court Confirmation. Higher bids/offers may be accepted by the court if they are made in court, and they are in an amount equal to or higher than the first minimum overbid which is 5% + \$500.

## 7. What do I need to bring on Auction Day?

Each bidder must have in their possession a \$10,000 cashier's check payable to NDA INC and a blank personal check; these will make up the sum of the 10% deposit which is required for all high bidders. The deposit will ONLY be collected from the high bidder.

## 8. Must I be present on Auction Day to bid?

Yes, you must be present at the auction to bid.

## 9. If I am unable to attend the auction, can I send a representative on my behalf?

In the event you are not available to attend the auction, and still want to bid, you may provide someone with a notarized, specific power of attorney and the required cashier's check and blank personal check.

Note: if the person attending on your behalf is the high bidder on auction day and signs the Seller's Offer to Purchase Contract and related documents, you are bound by all of the terms and conditions of sale. For this reason, you are advised to seek legal counsel prior to the auction.

## 10. Where can I find the open house/showing instructions?

Open house information may be found in one or all of the following locations: a) the MLS, b) <https://BidNDA.com> or c) Brochure. We recommend you check <https://BidNDA.com> before going to an open house.

## 11. Do you cooperate with outside real estate agents on Probate Sales?

Yes, A bidder that represents that, at the time of the offer, bidder has a written Buyer Representation Agreement with the Real Estate Agent or Broker who (a) attends the auction with and assists the bidder in submitting its bid, and (b) provided the bidder and agent signed the "Broker Compensation Agreement" attached to the Offer to Purchase Contract, that Broker will be entitled to receive 50% of the total commission awarded by the Court (the total is normally 3.8% of the purchase price so 50% is 1.9%). In the event the bidder

becomes the successful buyer and the sale is confirmed by the court; the commission will be paid to the agent at the close of escrow. A real estate licensee will not be entitled to share in the commission if the licensee is buying as a principal or intends to share the commission with the principal.

## 12. How many properties can I bid on?

You can bid on as many properties as you would like provided that prior to the start of each auction, you present to the auctioneer the \$10,000 cashier's check and blank personal or business check.

## 13. Will I receive a clear title to the property?

Yes, title insurance will be provided. The seller will be providing a clear title. Title will be free of all prior monetary liens and encumbrances (unless otherwise specified). Any monetary liens will be paid off through escrow from the sales proceeds.

## 14. Can the buyer obtain a loan?

The buyer may obtain a loan, however there are no financing contingencies. Make sure that your loan is secure before bidding. The bidder's deposit will be applied to the purchase price. Balance of the purchase price to be "ALL CASH."

## 15. How will the escrow fees be paid?

The escrow fees will be shared one half by seller, one half by buyer, each to pay own fees.

## 16. Do the properties have starting bids?

Usually, properties do not have starting bids unless otherwise stated in the brochure. On auction day, the auctioneer determines the starting bid.

## 17. Are the properties open for inspection?

Yes. Please refer to the brochure for the specific open house schedule. However, for reasons beyond the seller's and NDA INC's control, the properties may not be available for inspection even if an open house has been scheduled.

## 18. Do I need to have any forms or papers with me if I bid at the auction?

When registering with the auctioneer on auction day, you must have in your possession a \$10,000 cashier's check made payable to NDA INC, plus a blank personal or business check.

If you are the successful bidder, NDA INC will provide all of the necessary purchase documents. In order to complete the

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documents, you must provide your vesting (how you are going to hold title), your mailing address, email address, phone number. Be prepared to provide a copy of your driver's license, if requested.

## 19. Is the 10% deposit refundable if I decide to change my mind?

If you are the high bidder, your 10% deposit is not refundable based on the fact that these properties are sold AS-IS WHERE-IS with all faults known or unknown, disclosed or undisclosed, discoverable or undiscoverable, financeable or un-financeable, and with no inspection or financing contingencies.

If escrow does not close within the 45-day period, or within an extension of time granted by the Seller, California Probate Code 10350 requires the Seller to ask the court to vacate the sale or charge the buyer a \$200 per day hold-open fee until the close of escrow.

If the court orders the sale vacated, the law requires the deposit to be held by the Seller until the property has been sold again and escrow has closed. If the total amount of the final sales price, plus the amount of expenses and fees allowed by the court for vacating the first sale, is less than sales price of the vacated sale, the difference is paid from the deposit. If the difference is greater than the deposit, a lawsuit to collect the amount is usually filed. The relevant portion of Probate Code Section 10350 says: "If after the confirmation, the purchaser neglects or refuses to comply with the terms of the sale, the court may vacate the order of confirmation and order a resale of the property. If the amount realized on such resale does not cover the bid and the expenses of the previous sale, the defaulting purchaser at such previous sale is liable to the estate for the deficiency."

## 20. Does NDA INC charge a buyer's premium?

No, NDA INC does not charge a buyer's premium.

## 21. How can I obtain a brochure?

You may obtain an auction brochure by downloading the brochure from <https://BidNDA.com>.

## 22. What is the "1st Minimum Overbid at the Court Confirmation hearing?"

A higher bid may be accepted by the court if they are made in court and they are in an amount equal to the accepted bid, plus five percent (5%) of that amount plus \$500. The court shall deem any further incremental successive overbidding amounts. For instance, if the high bid on auction day was \$700,000 the first minimum overbid will be \$735,500

(\$700,000 + 5% of the high bid amount + \$500).

## 23. If I am the higher bidder, when can I close escrow?

After you sign the all of the paperwork on auction day, and submit your deposit, the offer must be presented to the court. A hearing to present your offer will be in approximately 45- to 60-days where it is subject to Court Confirmation and Overbid. The court date is solely up to the court and is subject to the court's calendar. Neither you, NDA INC nor the administrator/guardian have any control over the court date. Once the court sets the date of the hearing you will be notified by the court. Upon confirmation of the sale a 45-day escrow will be opened.

## 24. If the property is occupied will the new owner need to evict the current tenants?

Sales will be subject to the rights of occupants-in-possession, if any. If the property is occupied, escrow will close with the occupants in the property, and it will be the responsibility of the new owner to negotiate rental agreements with those occupants at that time.

## 25. If I am the high bid, how will I be notified of the date of the court confirmation hearing?

You will be notified by the Los Angeles County Superior court by mail and the court date will be listed on <https://BidNDA.com>.

## 26. What do I do with my cashier's check if I am not the winning bidder on auction day?

Take your cashier's check back to your financial institution and they will redeposit it back into your account.

## 27. I am the high bidder, but the property is sold to someone else due to overbidding in court, will my deposit be returned to me?

Yes, if the original bidder is outbid in court the original bidder's deposit will be returned after the court hearing.