



Effective Date: 2022/08/12

Number: PD – 62

Title:

Practice Direction

Sealed Bid Process for Foreclosures and Other Matters Involving Sales of Land

Summary:

This Practice Direction sets out the process for submitting sealed bids to the Court for foreclosures and other matters involving the sale of land. After filing an application for approval of sale, the Seller's counsel is responsible for forwarding a copy of or link to this Practice Direction to the listing agent for distribution to any interested buyer(s) or their agent(s).

Nothing in this Practice Direction prevents any party or interested party from applying to the Court for approval of a bid and sale process other than that set out herein.

Direction:

Bid Process

1. Unless the Court otherwise orders, the process for submitting sealed bids to the Court for foreclosures and other matters involving the sale of land is as set out below.
2. Within a reasonable period of time after filing an application for approval of sale, the Seller's counsel must forward this Practice Direction, or a link to this Practice Direction on the Supreme Court of British Columbia's website, to the listing agent by email for distribution by that listing agent to any interested buyer(s) or their agent(s).

3. Any person interested in making an offer to compete against an offer before the Court and the subject of an application for approval of sale ("**Original Bid**") to purchase any lands ("**Competing Offeror**") shall do so as follows ("**Bid Process**"):
 - (a) An offer to purchase in the standard real estate contract form, accompanied by a Schedule "A" to be provided by the Seller or its agent, shall be submitted by the Competing Offeror to the Seller's counsel either by: (a) a sealed envelope; or (b) attachment to an email with the Subject Line marked "SEALED BID: [address]", in either case addressed to the Seller's counsel;
 - (b) An offer to purchase must be accompanied by a Transmission Letter in the form attached as **Appendix A** hereto, signed by the Competing Offeror or their authorized representative, and an Acknowledgement of Receipt in the form attached as **Appendix A** hereto to be signed by the Seller's counsel; and
 - (c) All offers must be accompanied by: (a) the applicable deposit by way of bank draft or certified cheque; or (b) proof of delivery of a bank draft or certified cheque to the Seller's realtor or held in trust with the purchaser(s)' counsel; and, either concurrently with delivery of the offer or, if delivered by email, to be received by the Seller's counsel on or before 1:00 p.m. the business day preceding the hearing date of the application for sale approval ("**Hearing Date**").

All bids, in final form, must be received by the Seller's counsel by no later than 4:00 p.m. on that day which is two business days before the Hearing Date ("**Bid Date**").

4. The Seller's counsel shall endorse and return to the applicable Competing Offeror any Transmission Letter and Acknowledgment of Receipt provided by such Competing Offeror prior to the Bid Date.
5. The Seller's counsel shall advise the proposed purchaser under the Original Bid ("**Original Offeror**") that bids have been received pursuant to the process set out in paragraph 3 above within a reasonable period of time of a bid being received. The Original Offeror will have until 10:00 p.m. on the day after the Bid Date to provide a revised bid if they wish, accompanied by a Transmission Letter and Acknowledgment of Receipt.
6. The Original Offeror and all Competing Offerors (collectively, "**Offeror**" or "**Offerors**") acknowledge that:
 - (a) If an Offeror has not provided the Transmission Letter and Acknowledgment of Receipt to the Seller's counsel and received back a signed copy of the Acknowledgment of Receipt from the Seller's counsel, then the Seller's counsel is not under any obligation to consider such Offeror's bid;
 - (b) All bids must clearly set out the names of all parties to be on title should the offer be approved by the Court, with middle name and how title is to be taken (joint tenancy or tenants in common, with particular ownership interest);
 - (c) To the extent any bid submitted represents a revised offer from the Original Bid, it shall not be necessary for such revised offer to be accompanied by any further deposit of funds, and it may be provided on the condition that it is only to be relied upon if other offers are received; and

- (d) The Seller's counsel may request that any Offeror provide further information as to the identity of any related parties or operating minds of any corporate entities, so as to satisfy itself as to the Offeror(s)' *bona fides* and ability to complete the sale, including paying the purchase funds upon closing. Should any such Offeror(s) not provide information as may reasonably be requested by the time reasonably required in the request, the Seller's counsel may decline to consider their offer.
7. After receipt of any bids received in accordance with the procedure outlined above, and after the Bid Date:
- (a) The Seller's counsel will open any offers received in envelopes or electronic form;
- (b) The Seller's counsel shall provide any prior financial chargeholder's counsel with a copy of all offers it has received, either in envelopes or electronically, if the offer to be presented to court is not sufficient to discharge that encumbrance;
- (c) No earlier than 12:00 p.m. (noon) and no later than 4:00 p.m. the day before the Hearing Date, the Seller's counsel will electronically forward to the Supreme Court of British Columbia to the email address for the applicable Registry as set forth in **Appendix B** hereto, and cc to **foreclosurebids@bccourts.ca**, copies of the paper and electronic bids, each saved as its own document. Counsel should put "Sealed Bid" in the email subject line along with (a) the file location, (b) the file number, and (c) the hearing date. In the body of the email Counsel should include:
- (i) a request to direct the email to the presider; and
- (ii) a brief summary of the bid(s) including: (1) the amounts of the bid(s); (2) the names of the Offeror(s) for title purposes; (3) the proposed closing date(s); and (4) whether any bids or offers were received that were not made in compliance with the Bid Process ("**Non-Compliant Offer(s)**");
- (d) The Seller, the Seller's counsel and any chargeholder's counsel shall undertake to maintain the confidentiality of all bids received, either in envelopes or electronically; and
- (e) Notwithstanding (d), the Seller's counsel is at liberty to discuss the results of the Bid Process with counsel for any subsequent chargeholders and the Seller, in order to obtain instructions as to which offer to support at the court application, provided that such parties agree to keep the results confidential.
8. At the hearing, the Seller's counsel will confirm and report to the Court as to the results of the Bid Process, including whether any Non-Compliant Offer(s) have been received, and provide the Court with its position as to the best offer for the Court's further consideration, approval and pronouncement of a vesting order, if deemed appropriate.
9. After the Hearing, the Seller's counsel shall notify the successful Offeror of the outcome of the hearing and file the approved offer with the court by way of requisition.

10. The Court retains its full discretion with respect to the application for approval of any sale, including with respect to the use of the Bid Process and the consideration of any Non-Compliant Offer(s). In particular, the Court retains full discretion to review and consider any Non-Compliant Offer(s) as it sees fit.
11. Nothing in this Practice Direction prevents any party or interested party (such as a receiver or receiver manager) from applying for Court approval of a sales process other than the Bid Process.

Christopher E. Hinkson
Chief Justice

APPENDIX A

TRANSMISSION LETTER

Date/Time: _____

Enclosed is an offer to purchase with respect to the property municipally described as:
_____ (“Property”).

As an offeror for the Property (“Offeror”), I acknowledge:

- (a) the Seller’s counsel may not consider any offer received by them that is not accompanied by a deposit that is by way of bank draft or certified cheque, or proof of its deposit with the Offeror’s realtor;
- (b) the Seller’s counsel may not consider any offer received after the Bid Date or be required to forward the offer to the Court if received after the Bid Date;
- (c) the Seller’s counsel has no responsibility to ensure that an offer is complete, satisfactory, or meets compliance as to form, and is under no obligation to confirm any unclear, missing, ambiguous, or incomplete term or item and may, at its sole discretion, not consider any such offer without incurring any liability to any party, including the Offeror;
- (d) the Seller’s counsel may not consider any offer if they have not returned to the Offeror an endorsed copy of this letter; and
- (e) the Seller’s counsel may refuse to accept any revisions, amendments or attempts to increase any offer after the Bid Date.

Offeror(s)

ACKNOWLEDGEMENT OF RECEIPT

Date/Time: _____

By signing below, I/we hereby acknowledge receipt of either a sealed envelope or an email marked and/or stated to be from: _____.

In addition, by my/our signature(s) below, I/we make no acknowledgement or representation as to the contents of the envelope. The Offeror must satisfy itself that the envelope contains an offer in the form required, is accompanied by a deposit in the appropriate amount and form, and that the contents comply with the Bid Process.

Seller’s counsel

APPENDIX B

EMAIL ADDRESSES OF REGISTRIES

(per s. 7(c) of this Practice Direction also cc foreclosurebids@bccourts.ca)

File Location	Hearing Location	Registry Email Address
Abbotsford	Abbotsford	AG.CSB.Abbotsford.Supreme.Courts@gov.bc.ca
Campbell River	Campbell River	JAGCSBCampbellRiverCourtScheduling@gov.bc.ca
Chilliwack	Chilliwack	Chilliwack.ChambersDesk@gov.bc.ca
Courtenay	Courtenay	CourtenayRegistry@gov.bc.ca
Cranbrook	Kamloops	Kamloops.ChambersDesk@gov.bc.ca
Dawson Creek	Dawson Creek	Office15226@gov.bc.ca
Duncan	Duncan	JAGCSBDuncanCourtScheduling@gov.bc.ca
Fort St. John	Fort St. John	Office15228@gov.bc.ca
Golden	Kamloops	Kamloops.ChambersDesk@gov.bc.ca
Kamloops	Kamloops	Kamloops.ChambersDesk@gov.bc.ca
Kelowna	Kelowna	Kelowna.ChambersDesk@gov.bc.ca
Nanaimo	Nanaimo	Nanaimo.ChambersDesk@gov.bc.ca
Nelson	Kamloops	Kamloops.ChambersDesk@gov.bc.ca
New Westminister	New Westminister	NewWestminster.ChambersDesk@gov.bc.ca
Penticton	Penticton	PentictonCourtRegistry@gov.bc.ca
Port Alberni	Port Alberni	Nanaimo.ChambersDesk@gov.bc.ca
Powell River	Powell River	powellriverregistry@gov.bc.ca
Prince George	Prince George	Office15214@gov.bc.ca
Prince Rupert	Victoria	Victoria.CourtScheduling@gov.bc.ca
Quesnel	Quesnel	Office15230@gov.bc.ca
Revelstoke	Kamloops	Kamloops.ChambersDesk@gov.bc.ca
Rossland	Kamloops	Kamloops.ChambersDesk@gov.bc.ca
Salmon Arm	Salmon Arm	JAGCSBSalmonArmScheduling@gov.bc.ca
Smithers	Victoria	Victoria.CourtScheduling@gov.bc.ca
Terrace	Victoria	Victoria.CourtScheduling@gov.bc.ca
Vancouver	Vancouver	VLC.chambersdesk@gov.bc.ca
Vernon	Vernon	JAGCSBVernonScheduling@gov.bc.ca
Victoria	Victoria	Victoria.CourtScheduling@gov.bc.ca
Williams Lake	Williams Lake	Office15231@gov.bc.ca