



Harold Benjamin

LEGAL MINDS *business thinking*



UK Property Auction  
Advisory Service  
*Pocket Guide*

## WHO WE ARE

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- Founded in 1953, based in the West End of London with an office in Harrow-on-the-Hill. Widely acknowledged as one of the UK's leading law firms specialising in commercial and residential property advice across the UK.
- Noted for applying progressive, innovative and dynamic thinking combined with a genuine and active interest in helping clients meet their individual needs.
- Clients include national and international corporations, private property companies, banks, major national developers and builders, private companies, listed and unlisted public limited companies and professional, leisure, retail and educational organisations.



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## OUR TEAM

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John Townsend, a Fellow of the Royal Institution of Chartered Surveyors, heads up the firm's Auction Advisory Service.

John has worked in the auction industry for more than 31 years and is one of the UK's most renowned and respected commercial property auctioneers. He was head of auctions and principal auctioneer at Edward Erdman, then Healey & Baker (later Cushman & Wakefield) and, most recently, CBRE. He has been on the rostrum for 153 auctions and has offered a total of 7,157 properties of which nearly 6,000 have sold, thereby maintaining an average success rate of 84% and raising around £3.6 billion.

Working alongside our already well-established and renowned Real Estate and Commercial Property Investment and Auctions team, which is headed by Vijay Parikh, John's vast experience of the auctions sector, combined with the legal expertise of Harold Benjamin, allows the Auction Advisory Service to provide a bespoke service to both clients and investors alike, who may be considering buying or selling commercial or residential property at auction.

They can offer pre-sale advice, helping identify suitable properties for purchase at auction as well as by private treaty, advising on the auction process itself and bidding in the room on behalf of both experienced and new entrants to the market. The legal team can also help buyers review the legal papers prior to bidding and deal with the conveyancing once a property has been bought.

Since being set up, the service has already acted successfully for a number of bidders in various auction rooms and helped prospective purchasers source suitable properties for investment.

## AUCTIONS & THEIR BENEFITS

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- The UK Property Auction business has developed over the past 40 years from being the method of last resort to being an extremely efficient method of sale and one which should be considered for all types of property up to a lot size of about £10 million.
- For a Vendor, it's major benefit is not only the speed of sale, knowing that completion can take place within eight to ten weeks from confirming instructions, but it is also the certainty that it offers, with an immediate contract on the fall of the hammer, with no last minute re-negotiations, often encountered with private treaty transactions.
- For Receivers and Executors, an auction can ensure that the best price is seen to be achieved on the day and that a much wider market can be accessed, than more conventional methods of sale can reach.
- For buyers, the fact that an auction sale will generally include from 30 to over 100 properties for consideration, a much wider choice is available than might otherwise have been available by private treaty.
- Buyers can see for themselves if there is any competition in the auction room and once the sale has started, there is no chance of being "gazumped", which can sometimes happen by private treaty in a rising market.
- Bidders who cannot attend the auction, can also bid by telephone or via the Internet or use our Auction Advisory Service to ensure they get the best chance on the day.

## AUCTIONS CHECKLIST

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- Identify the properties of interest.
- If possible attend a viewing and if necessary arrange a structural /survey.
- Ask questions of the auctioneers with regard to other interests.
- Have the legal documentation reviewed.
- Check the Addendum/Changes to the property information – before bidding it is important to look out for any last minute changes that may affect the property.
- Check with the auctioneers if the seller will agree a sale prior to the auction.
- Finance – if you are successful in bidding, you will be required to provide a 10% deposit on the day of the auction. The balance is due on the day of completion. Therefore you must ensure that you have confirmed your financial arrangements for completion before you bid.
- Check if a buyer's premium is payable.
- If you cannot attend the auction there are a number of options including telephone bidding or online or proxy bidding. A member of our team can also attend the auction and bid on your behalf.

# DAY OF THE AUCTION

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Make sure you arrive early and remember to bring with you:

- Cheque book
- Identification: photo ID (preferably passport) and proof of address (bank statement or utility bill not more than 3 months old).

The sale will be progressed in the order that the lots appear in the auction catalogue. Some lots may not be included in the sale as they may have been withdrawn or sold, so it is important to check that the lot you are interested in is still available.

**Addendum** – it is imperative that you check the printed addendum which will note any changes that may have occurred since the catalogue was printed. This will form part of the contract. The addendum may contain material information including any correction in rent payable, disclosures of tenants' break clauses, changes to length of leases etc. It is, therefore, a very important document.

**Bidding** – The auctioneer will invite bids. You can make your bid by raising your hand. It is important to make your bids clear and to get the attention of the auctioneer. The property will be sold to the highest bidder (provided the reserve is met or exceeded).

**On the fall of the hammer** – if the hammer falls and you are the highest bidder, you have bought the property. You will be given a card to complete with your details and your solicitor's details. At this stage you will be asked for a deposit cheque in the sum of 10% of the price. You will then be asked to sign the memorandum of sale and handed one part of the auction contract.

In the event that you are not successful or the reserve price is not met you should register your interest with the auctioneers who will ask the seller to consider an offer post-auction.

## Reviewing Legal Documentation

At the drop of the hammer the sale is secured. You will be contractually and legally bound to complete the purchase of the property irrespective of any title or legal defects.

The seller's solicitors will prepare a legal pack consisting of special conditions of sale (this forms part of the auction contract), title documents, copies of occupational leases, searches and replies to enquiries.

It is imperative that you have the legal papers reviewed prior to bidding to avoid any nasty surprises later. There have been countless examples of buyers successfully bidding for a property and reviewing the papers subsequently.

Typical examples of problems that we have encountered include:

- The buyer is obliged to pay the seller the tenant's arrears on completion.
- VAT is actually payable on the purchase price.
- The tenant has exercised their option to terminate their lease.
- The property has no benefit of direct access.
- Lack of planning for the current use.
- Local authority enforcement action.
- The upper parts of the property that the buyer thought were vacant were actually let or vice versa.
- Rent review is not upward-only and can potentially go down.

If you do not already have a firm of solicitors acting for you, we would be delighted to help.

# FREQUENTLY ASKED QUESTIONS

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## *Does “VAT applicable” mean that I have to pay VAT on the purchase price and therefore find an extra 20% per cent?*

Not necessarily. The auction contract may provide for the buyer to benefit from the Transfer of Going Concern regulations. Provided that the property is let on a commercial lease and conditions are met (including being registered for VAT and electing the property for VAT) you will not be required to pay VAT on the purchase price. Please ask a member of our team for specific advice.

## *When do I have to complete?*

The completion date will be contained in the contract. Typically it will be 28 days from the date of the auction date or contract date. However, this time can be either longer or shorter.

## *I want to complete in a different company or name. Is this possible?*

The party noted on the contract as the buyer is the party required to complete the transaction. Any changes will have to be with the consent of the seller and at their sole discretion.

## *I live abroad and need help managing the property what do you suggest?*

Many of our clients live abroad. It is important that you appoint a trusted managing agent who will look after the collection of rent and will inspect the building. The majority of these management costs would usually be recoverable under the terms of an FRI lease. Please contact a member of our team if you need assistance in finding a managing agent suitable for your needs and requirements.

## *What does FRI mean?*

Full Repairing and Insuring. The term is used to show that the tenant is fully responsible for repairs, both internal and external and also for payment of insurance and other costs in respect of the property.

## *What does rental top up mean?*

You would normally see this where a property has the benefit of a fixed rent increase in the future. The seller may top up the rent by allowing the buyer the difference between the current passing rent and the future fixed increased rent.

## *Do I need to insure the property?*

This depends upon the conditions contained in the occupational lease. Generally the landlord insures and therefore as the new owner, yes. However, in some circumstances the tenant will insure the property. It is important to obtain a copy of the insurance for your records. We will assist in this process.



*I have known and worked with Vijay and the Harold Benjamin team for many years and we share a wide number of clients. Being a former auctioneer, John is a great addition to the team and his role assisting clients with their acquisitions complements the services they are able to offer commercial auction clients very well. I have always found everyone in the Harold Benjamin team very approachable and helpful and would happily recommend their services.*

**all**sop Mark Gower, Allsop



## WHO WE WORK WITH

- 259 City Road Ltd
- Alexander McQueen
- Allied Irish Bank
- Banner Homes Ltd
- Balenciaga
- Bellwood Homes Group
- Boucheron
- Bouygues (UK) Ltd
- Bread Factory
- Byrne Group Residential Ltd
- Cavanna Homes (South West) Limited
- Christopher Kane
- Comer Homes Group of Companies
- Countrywide Group
- Davis Estates (Southern) Ltd
- Fonehouse
- Gail's Bakeries
- Groveworld Group of Companies
- Hamptons
- Harcourt Developments Ltd
- Headmasters
- Jaysam Contractors Ltd
- JS Bloor Homes Ltd
- Kier Living Ltd
- Ladbroke's Coral Group
- Mackenzie Homes
- Matthew Homes Limited
- Martin Grant Group of Companies
- Metro Bank
- NatWest/Royal Bank of Scotland Plc
- Orion City Road Trustee Limited
- Picturehouse Cinemas Ltd
- Pomellato
- Roksanda Illinic
- Sherrygreen Homes Ltd
- Taylor Wimpey UK Ltd
- Tesco Stores Ltd (Residential Estate Development)
- The Flour Station
- Turner Properties Ltd/ATA Estates Ltd
- Vivienne Westwood
- Wallis Road Developments Ltd
- Westcombe
- YaccoMaricard

*“Let us navigate you round the dangers of commercial property auction sales and purchases”*

## AUCTIONEERS DIRECTORY



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Acuitus

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*Vijay and his team at HB have acted for a number of our buying and selling clients who, we know, respect them greatly. Their reputation, built up over many years, has spread by word of mouth. In the fast moving world of property auctions our clients need a legal team that understands how to deliver a sale or purchase on time, efficiently, professionally and to budget. Vijay and his colleagues are that team. John is a powerful addition to that team, being one of the most influential and successful commercial property auctioneers of this generation and one of the best-known faces in the market. He delivers real world advice and pragmatism with not just an in-depth knowledge of the bricks and mortar but also of the people behind the deals. John regularly successfully represents HB buying clients in our auction room.*



Richard Auterac, Acuitus



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