

Public Auction



O'Dea's Realty & Auction Room Ltd.

IN THE TOWN OF PORT REXTON
5A Dog Cove Road
3 Church Road
12-14 Level Road
(each the "Property")

Each parcel to be sold independently.

Procedures and Conditions

Each Property is located within the boundaries of the Town of Port Rexton and is more particularly described in in surveys and photographs set out in Appendix D.

1. The Town of Port Rexton will sell each Property by public auction. The auction will be held at the town office at 79 Main Road, Port Rexton, NL at 10:00 AM (local time) on 31 August 2018.
2. Bidders must register with the Town of Port Rexton prior to being able to bid using the registration form set out in Appendix A. Bidders may bid through agents provided the name and address of the bidder and the agent is disclosed by depositing with the Town Clerk prior to the commencement of the auction a Power of Attorney in the form attached in Appendix C.
3. To register for the auction, all bidders are required to deposit \$5,000.00 in cash or by a certified cheque or bank draft payable to "O'Dea's Realty and Auction Room Ltd., In Trust".
4. The Property will be sold "as is where is" to the successful bidder. The Town of Port Rexton shall not be obliged to provide an abstract or other evidence of title.
5. On the conclusion of the auction, the successful bidder's deposit of \$5,000.00 will be cashed and applied to the taxes, interest, costs plus HST, if applicable, owing in respect of the Property ("Arrears"). In the event the amount of the highest bid is in excess of the Arrears, the balance, plus HST shall be paid as follows:
 - a. A certified cheque or bank draft payable to the Town of Port Rexton in an amount representing the difference between the \$5,000.00 deposit and the amount of (i) outstanding taxes, plus (ii) interest to date of auction plus (iii) anticipated town costs plus HST. Anticipated town costs will be known within a few minutes after the final hammer price has been determined for each Property. Successful bidders should budget in a range from \$12,000-\$17,000 for each Property with the understanding that the final estimate of town costs will not be determined until the auction hammer price for each Property has been determined. This anticipated cost range bears no relationship to market value. That supplementary

deposit (difference between calculated costs and \$5000 deposit) is due by 3:00 PM (local time) on the auction day by certified cheque or bank draft with the balance due on the closing day by certified cheque or bank draft payable to the Town of Port Rexton. Only one \$5000 deposit is required for each bidder, however, if a bidder buys two or more properties, full town costs are also due on second or more purchases by 3 PM.

- b. A certified cheque or bank draft payable to the Town of Port Rexton in the amount of the balance of the Purchase Price on the closing of the sale.

Failure of the successful bidder to complete the sale will result in the successful bidder forfeiting the deposit and other amounts paid to the Town of Port Rexton.

6. The successful bidder must enter into a Contract of Sale in the form set out in Appendix B which will provide that the sale shall close within 30 days of the auction date. The Town of Port Rexton reserves the right to extend the closing of the sale for any reason including, but not limited to, the requirement to obtain a clearance from the Province of Newfoundland and Labrador as to whether the property is Crown Land.
7. The sale to the successful bidder is conditional on a subsequent clearance from the Province of Newfoundland and Labrador that the Property is not Crown Land. If, subsequent to the auction, the Property is found to be partly or wholly Crown Land, the sale will be considered null and void and the Town of Port Rexton will release the deposit and all monies paid by the successful bidder in respect of the sale.
8. The Town of Port Rexton will provide the successful bidder with copies of any title documents relating to the Property which are in its files. At the closing of the sale, the Town of Port Rexton warrants title only as being free from encumbrances of the Town of Port Rexton. For greater certainty, the Town of Port Rexton does not warrant title as being free from any claims either before or after the sale by auction. With respect to the Property, the Town of Port Rexton makes no representations, warranties, or guarantees, expressly or by implication, in connection with title, encumbrances, description, location, dimensions, condition, and compliance with governmental regulations or fitness for a particular purpose of the Property.
9. The Town of Port Rexton will provide the successful bidder with a deed of conveyance which will vest the Property in the name of the successful bidder in accordance with section 147 of the *Municipalities Act, 1999* which states:

Vesting of property

147. The conveyance referred to in section 146 shall be conclusive evidence that the provisions of this Act with reference to the sale of the real property described in that conveyance have been fully complied with, and everything necessary for the legal perfection of that sale has been performed, and shall have the effect of vesting the real property in the purchaser, his or her executors, administrators or assigns absolutely free from encumbrances except a claim of the Crown and an easement.

10. Conditions Of Sale By Public Auction
 - a. The highest bid from the approved bidder will be the buyer of the Property, subject to:
 - (i) the reserve price, which reserve / minimum will not be disclosed prior to the auction; and

- (ii) the seller's approval.
 - b. The Town of Port Rexton reserves the right to bid in at the auction.
 - c. The bidder warrants the ability to enter and complete the Contract of Sale in accordance with its terms, (without conditions such as financing, inspection, etc) and without modification.
 - d. Any agent bidding on behalf of another person, or other legal entity, must provide the Town of Port Rexton with a copy of the Power of Attorney at the time of registration and such authority may be subject to approval of the Town of Port Rexton, otherwise the bidder will be taken to be acting on his/her/its own behalf. Realtors are welcome to participate on behalf of their clients provided the following is delivered to the Town Clerk/Manager prior to the commencement of the auction: (i) the name of the client and related data and (ii) the Power of Attorney. Any commission arrangements are to be agreed between the realtor and the bidder as no commission is payable by the Town of Port Rexton.
 - e. The Auctioneer has the discretion to refuse to accept any bid. A bid will be taken to be accepted and irrevocable unless the Auctioneer, immediately after it is made, refuses it.
 - f. The decision of the Auctioneer is final in all matters relating to the auction and no bidder has any right of recourse against the Auctioneer or the Town of Port Rexton, or their respective representatives and agents. If there is any dispute over a bid, the Auctioneer may:
 - (i) re-open the bidding and resubmit the Property for sale starting with the highest bid previously accepted; or
 - (ii) determine the dispute in any other way the Auctioneer considers appropriate in the Auctioneer's absolute discretion.
 - g. Immediately on the fall of the hammer, the bidder of the highest bid accepted must sign, as the buyer, the Contract of Sale and pay the amount set out in 5a above. The balance of the purchase price, plus HST, shall be paid on the closing of the sale.
 - h. The Auctioneer shall witness the Contract of Sale immediately after the auction has ended. The successful bidder agrees that the Auctioneer is not acting as the bidder's agent or otherwise is represented by the Auctioneer and the Auctioneer's only obligation is to provide information relating to the auction and to conduct the auction on behalf of the Town of Port Rexton.
 - i. If the successful bidder does not pay the full Arrears, at the option of the Town of Port Rexton:
 - (i) the result of the auction will be treated as invalid and the Property may be resubmitted to public auction at the risk and expense of that bidder; or
 - (ii) the Town of Port Rexton may affirm the Contract of Sale and pursue its legal and other remedies against the bidder as it sees fit.
 - j. Other special conditions may apply and will be communicated on the day of the auction.
 - k. Only registered bidders or those holding a Power of Attorney will be able to bid and dialog at the auction by bidders or designated power of attorney will simply be permitted to place bids. Those engaged in dialog perceived as disruptive to the auction in any way will be asked to leave the premises by the auctioneer or Town Manager.
11. The Town of Port Rexton reserves the right to waive any or all of the terms and conditions of the auction.
12. Bidders should note that they are responsible for undertaking any due diligence and associated investigations concerning zoning, access and all other matters affecting the

Property. Closing on all Properties will occur on the same date unless otherwise agreed between the successful bidder and the Town of Port Rexton.

To bid at an auction:

- It cannot be emphasized enough that it is the bidder's responsibility to attract the Auctioneer's attention by using a gesture such as raising your hand, calling out or nodding your head when you catch the Auctioneer's eye.
- Don't hesitate to indicate your interest when the auction starts and the Auctioneer calls for your bids. Your bid does not have to be the amount nominated by the Auctioneer, although it is at the Auctioneer's discretion as to whether or not to accept a bid.
- Don't leave your bidding until the last moment - you may just miss the Property.
- Remember, subject to the reserve price, when the hammer falls the highest bidder is the purchaser.
- Bidders will register in advance and will need to provide photo ID in the form of a driver's license or passport or other ID as deemed appropriate by the Town of Port Rexton.
- Closing date for the sale of the Property will be within 30 days from the date of the auction.

Appendix A

Registration Form
Public auction
IN THE TOWN OF PORT REXTON
5A Dog Cove Road
3 Church Road

12-14 Level Road
(each the "Property")

Name _____

Name of Business _____

Bid Number _____

Driver's License ID number _____

Mailing address home _____

Mailing address business _____

Business Phone number _____

Cell Phone number _____

Home Phone Number _____

Email address _____

I have read and agree with all of the contents of the Procedures and Conditions pertaining to the above noted Properties. Furthermore, I hereby deliver a certified cheque, bank draft or cash in the amount of \$5,000.00 payable to "O'Dea's Realty and Auction Room Ltd., In Trust" in order to participate in the auction. In the event I am the successful bidder, I agree to pay the balance of the purchase price, plus HST, as follows:

A certified cheque or bank draft payable to the Town of Port Rexton in an amount representing the difference between the \$5,000.00 and the amount of (i) outstanding taxes, plus (ii) interest to date of auction plus (iii) anticipated town costs, plus HST, if applicable. Anticipated town costs will be known within a few minutes after the final hammer price has been determined for each parcel of land. Successful bidders should budget in a range from \$12000-17000 for each Property with the understanding that the final estimate of town costs will not be determined until the auction hammer price for each Property has been determined. That range bears no relationship to market value. That supplementary deposit is due by 3:00 PM (local time) on the auction day by certified cheque or bank draft with the balance due on closing day by certified cheque or bank draft payable to the Town of Port Rexton.

I agree that should I fail to complete the sale I will forfeit the amounts set out above to the Town of Port Rexton and that I may be subject to additional costs incurred by the Town of Port Rexton applicable to a subsequent sale by auction of the Property and the Contract of Sale shall be deemed to be null and void.

Signature of Registrant _____

Date _____ Time _____

Witnessed by _____

Appendix B

Contract of Sale

I/We _____

of _____ (“Purchasers”) having inspected _____, Port Rexton, in the Province of Newfoundland and Labrador (“Property”) offer to purchase the Property from the Town of Port Rexton (“Vendor”)

At a price of \$ _____ plus HST, in lawful money of Canada (“Purchase Price”) by certified cheque or bank draft upon the following terms and conditions payable as follows:

- i. \$5,000.00 payable to “O’Dea’s Realty and Auction Room Ltd., In Trust” as a deposit with my/our bid registration form,
- ii. \$ _____ being the difference between the \$5,000.00 deposit and the amount of (i) outstanding taxes, plus (ii) interest to date of auction plus (iii) anticipated town costs, plus HST. This supplementary deposit is due by 3:00 PM (local time) on auction day
- iii. \$ _____ being the balance of the Purchase Price on or before _____ (“Closing Date”)

On the following terms and conditions:

- 1. The Vendor does not warrant the location, dimensions or condition of the Property and that the sale is pursuant to section 147 of the *Municipalities Act 1999*.
- 2. Vacant possession to be given by the Vendor and the transaction of purchase and sale shall be completed on or before the Closing Date.
- 3. This agreement constitutes a binding contract of purchase and sale, and time shall in all respects be of the essence hereof.
- 4. This agreement shall enure to the benefit of and be binding upon all parties hereto, and their respective heirs, executors, administrators, successors, and assigns.
- 5. The Purchaser agrees that Harmonized Sales Tax applies to this sale and will be added to the Purchase Price.
- 6. The Purchaser agrees that the Auctioneer is not acting as the Purchaser’s agent, and the Auctioneer’s only obligation is to provide information relating to the auction and to conduct the auction on behalf of the Town of Port Rexton.
- 7. I agree to the above terms.

Dated at the Town of Port Rexton, NL, on _____

Purchaser _____

Witness _____

Purchaser’s Solicitor _____

Vendor – Town of Port Rexton

Per: _____

Witness _____

Vendor’s Solicitor _____

Appendix C
Power of Attorney

KNOW ALL BY THESE PRESENTS that I/we, _____,
of _____, in the Province of _____
hereby appoint _____
of _____, in the Province of Newfoundland and
Labrador my/our attorney for us and in my/our name

1. To act for me/us in connection with the auction and sale of certain land by the Town of
Port Rexton situate at _____ Trinity Bay, Newfoundland
and Labrador, and in connection therewith,
2. To sign and execute on my/our behalf all forms, contracts, deeds, releases, instruments,
undertakings and other documents, and
3. To make and deliver payments as required in connection therewith,

All pursuant to the procedures and conditions of Public Sale issued by the Town of Port Rexton
and attached hereto which I/we acknowledge having read and agree to.

AND I/we hereby undertake to ratify everything which my/our said attorney shall do or purport to
do by virtue of these presents.

IN WITNESS WHEREOF the Appointer(s) have hereunto their respective hands and seals
subscribed and set at _____, on this _____ day of
_____ 2018.

SIGNED, SEALED AND DELIVERED

by the Appointer(s), in the presence of:

_____ O

_____ O

Appendix D

1. Survey and Description of Property at 5A Dog Cove Road
2. Survey and description of Property at 3 Church Road
3. Survey and description of Property at 12-14 Level Road

For additional information, interested parties can call Chris O'Dea at 685-6559 (area code 709) or Town Manager Lois Long at 464-2006 (area code 709) or Tina Toope at the same number