

Borough of Highlands

Resolution No. R-15-39

A RESOLUTION AUTHORIZING THE PUBLIC SALE OF CERTAIN PROPERTY OWNED BY THE BOROUGH OF HIGHLANDS NOT REQUIRED FOR PUBLIC PURPOSES PURSUANT TO N.J.S.A. 40A:12-13(a)

WHEREAS, N.J.S.A. 40A:12-13(a) authorizes a governmental unit to sell any real property, not needed for public use by open public sale at auction to the highest bidder after the required advertisements; and

WHEREAS, the Borough is the owner of real property identified as Block 72, Lot 2 (“the Property”) on the Official Tax Map of the Borough of Highlands; and

WHEREAS, the Governing Body has determined that the Property is not needed for public use; and

WHEREAS, an appraisal report prepared for the Property determined that the Property’s fair market value is sixty thousand dollars (\$60,000.00), that the Property is less than the minimum size required for development under the Borough’s zoning ordinance, and is without any capital improvement thereon; and

WHEREAS, in accordance with N.J.S.A. 40A:12-13(b)(5) and N.J.S.A. 40A:12-13.2, the Borough afforded all contiguous property owners the right of first refusal to purchase the Property for not less than the fair market value thereof; and

WHEREAS, the Borough rejected the bid received pursuant to N.J.S.A. 40A:12-13(b)(5) and N.J.S.A. 40A:12-13.2 because the bid was for less than the appraised fair market value of the Property; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13.1 the Borough is permitted to authorize the sale of the Property by public sale to the highest bidder by resolution; and

WHEREAS, the Governing Body has determined that it is in the best interests of the Borough that the Property now be sold by open public sale at auction to the highest bidder; and

WHEREAS, the Governing Body has determined that the list of property authorized to be sold pursuant to this Resolution and N.J.S.A. 40A:12-13(a) is: Block 72, Lot 2 (Lot size is approximately 2,460 square feet); and

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Highlands, the County of Monmouth, in the State of New Jersey, as follows:

Section 1.

(a) The Governing Body hereby declares that the Property is no longer needed for public use and shall be sold in accordance with N.J.S.A. 40A:12-13(a), et seq.

(b) There shall be an open public sale at auction on _____ 2015 at 11:00 a.m., at the Borough of Highlands Municipal Building, 42 Shore Drive, Highlands, NJ 07732, where the Property shall be offered to the highest bidder pursuant to N.J.S.A. 40A:12-13(a). The minimum price for all bids shall be twelve thousand and five hundred dollars (\$12,500.00) and the reservation price shall also be twelve thousand and five hundred dollars (\$12,500.00)

Said auction shall be in accordance with the terms and conditions set forth in the remainder of this Resolution.

(c) The successful bidder shall be required to deposit ten (10%) percent of his or her bid with the Borough at the time of the auction. This deposit shall be made by a certified check, money order or cash in an amount equal to at least ten (10%) percent of the accepted bid by the Borough for the sale of the Property. The combined form of deposit must equal ten (10%) percent of the total sale price. All monies so received will be credited to the total sale price.

(d) Non-Refundable Deposit. The deposit made by the purchaser is non-refundable. The purchaser is not entitled to a refund of this deposit in any case and the risk of loss is on the purchaser.

(e) All bidders must appear in person at the auction and any person bidding on behalf of a corporation or limited liability company must either submit a copy of a resolution of the corporation/company or a letter on corporate stationery, signed by an officer of the corporation, authorizing the bidder to bid on the property on the corporation's behalf. A person bidding on behalf of a partnership or using a trade name must submit a copy of the certificate of trade name and a letter of authorization from the other partners. No other bidder may submit a bid on behalf of another, except that a husband or wife may bid on behalf of both.

(f) The successful bidder shall be required to pay, at the time of closing of title, the cost of legal advertising of the sale of the Property which is the subject of this auction plus their proportionate cost of the transcript, if applicable.

(g) The successful bidder shall bear the cost of the recording of the deed and agrees that deeds shall be recorded on behalf of the purchaser by the Borough of Highlands or by an attorney representing the successful bidder. The successful bidder, prior to closing of title, will not be permitted to assign his or her bid nor any right, title or interest in the property on which the bid was made.

(h) The successful bidder, at the conclusion of the bidding, shall execute an Agreement of Sale. The balance of the purchase price shall be paid at closing which shall occur not later than 60 days following the acceptance of the bid by the Borough. The purchaser shall be entitled to possession immediately following closing of title.

(i) The sale price, as may result from this auction sale, may not be used before any County Board of Taxation, State Tax Court or in any other court of this State to challenge the assessment with respect to the subject property nor may same be used as a comparable sale to challenge the assessment with regard to other properties.

(j) The Property herein sold is being sold “as is” subject to existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting said property. The Borough makes no representations as to the presence or absence of wetlands or any other environmental conditions on the property and the purchaser assumes the risk of any such condition, all property being sold “as is.” A prospective purchaser shall have examined the Property or otherwise waived the right to examine the Property prior to submitting a bid to the Borough. The Borough does not make any representations, express or implied, that the Property is buildable or usable for any purpose whatsoever.

(k) The Borough represents that the property which is the subject matter of this Resolution is a non-conforming parcel by virtue of the zoning ordinance requirements of the Borough of Highlands. If sold to a contiguous property owner, this property will merge with and become a part of the lot owned by the successful bidder that is contiguous to this property. The sale of this property by the Borough shall in no way be construed as an indication that a construction permit can be secured for the property.

(l) All conveyances by the Borough shall be made by quitclaim deed.

(m) The Governing Body reserves the right to waive any and all defects and informalities in any proposal and to accept or reject the highest responsible and responsive bid deemed to be in the best interest of the Borough. No bid shall be considered finally accepted until passage of a resolution by the Governing Body as set forth in Paragraph (n) hereof.

(n) The acceptable bid shall be confirmed by resolution of the Governing Body no later than the second regular meeting of the Governing Body following the date of such sale.

(o) The successful bidder agrees that:

(1) He or she shall indemnify and hold the Borough harmless from any claim whatsoever arising out of the Borough’s ownership interest including but not limited to environmental cleanup costs.

(2) Pay prorated real estate taxes for the balance of the current year, as of the date of closing.

(3) Abide by all appropriate zoning, subdivision, health and building regulations and codes and stipulations that this sale will not be used as grounds to support a challenge of the existing assessment of the subject property, nor shall the purchase price be used as a comparable sale to challenge assessments with regard to other properties.

(4) Failure to close title as agreed shall forfeit to the Borough of Highlands any and all money deposited with the Borough.

(p) A failure by the purchaser to fully comply with the terms, conditions, requirements and regulations of sale as herein contained shall be considered, at the option of the Borough of Highlands, as a material breach of the conditions of sale whereupon the Borough may declare said contract or purchase terminated and at an end. All monies paid on behalf of the purchase price, by way of deposit or otherwise, may be retained by the Borough as its liquidated damages and it may thereafter resell said property and/or pursue such other and further legal and/or equitable remedies as it may have and the defaulting purchaser shall continue to remain liable for all damages and losses sustained by the Borough of Highlands by reason of any such default.

(q) The sale is made subject to all applicable laws and ordinances of the State of New Jersey and the Borough of Highlands.

Section 2. NOTICE. The Borough Clerk shall advertise copies of this Resolution as required by N.J.S.A. 40A:12-13(a) and therefore shall advertise the open public sale at auction of the Property in a newspaper circulating in the municipality in which the Property is situated, by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven days prior to such sale.

Section 3. AUTHORIZATION. The Mayor, Clerk, Borough Attorney, and such other officials as may be necessary are authorized to perform such ministerial actions as are necessary to effectuate the purposes of this Resolution including, but not limited to, preparing and executing a deed and all other necessary documents to convey the Property to the successful bidder, subsequent to the Governing Body adopting a resolution awarding the bid.

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
CARD			x			
KANE			x			
REDMOND		x	x			
RYAN	x		x			
NOLAN						x
ON CONSENT AGENDA			x	YES		NO

DATE: January 21, 2015

Carolyn Cummins, Borough Clerk