

General Information Regarding Judicial Auction Sale of Unit 147

The following information is based upon publicly filed court documents and statutory law.¹ It is intended as a general and introductory overview of how the sale will be conducted. It should not be considered legal advice about any specific question. In plain terms, it hits the high points but not all points, so potential bidders are encouraged to look beyond this document.

Condominium Unit 147 will be sold at auction by the U.S. Marshal in the coming months.² The sale will be held at the U.S. Courthouse in St. Thomas and will be open to the public. No date has been set for the auction; when a date has been set, notice will appear in local publications and will also be posted by the Sapphire Village condominium manager. When the notice of the sale is publicly posted, it will contain additional instructions. Anyone who plans to bid at the auction should carefully read all notices regarding the sale.

The auction will be in person and will be conducted by a U.S. Marshal. The Marshal has wide discretion as to how the bidding is managed. Bidders may be asked to provide names and contact information before the auction starts. The bidding is usually done orally (as opposed to in writing). The Marshal may require bidding increments to be in round numbers and of a minimum amount. The auction will continue as long as there is active bidding and will usually be held open for one hour but there is no hard rule about this, so don't show up late.

The high/winning bidder must deposit ten per cent (10%) of the high bid amount with the Marshal's office before the close of business on the day of the sale. Only certified or bank manager checks are accepted by the Marshal. Because the amount of the high bid (and thus the 10% amount) will not be known until the close of bidding, the high bidder should be ready to promptly get the bank check and return to the Marshal's office. If the high bidder fails to deposit the 10% on the day of sale, the bidder will lose the sale. In that case, the Marshal may award the sale to the second-highest bidder or may cancel the sale and reschedule it.

The remaining ninety per cent (90%) must be paid within thirty (30) days of the sale. If it is not paid within 30 days, the bidder will lose the sale **and will forfeit the 10% deposit**. For this reason, bidders must ensure that they will have sufficient cash to pay the remaining amount. Obviously, if the bidder is depending on financing, then the lender must be prepared to close **before** the expiration of the 30-day period – a dicey proposition.

After the full amount has been paid to the Marshal's office, a certificate confirming the sale will be issued by the Court to the winning bidder. This certificate is not a deed.

¹ Some, but not necessarily all, of the pertinent statutory law can be found in Title 5, Chapter 43 and Title 28, Chapter 23 of the V.I.Code.

² The auction sale is a result of a foreclosure action against the unit by Oriental Bank and Sapphire Village COA. The action was brought in the U.S. District Court of the Virgin Islands, Division of St. Thomas & St. John, as Oriental Bank v. Hutchings, Case No. 3:19-cv-00057. The entire case file is available to the public through the Court's PACER system, which can be accessed at <https://www.vid.uscourts.gov/>

By statute, the condo owner who is the defendant in the foreclosure action has six (6) months from the date of sale confirmation within which to redeem (get back or recover) the unit. Redemption is done by reimbursing the winning bidder in the amount of bid plus interest.

If the six-month period expires and the losing owner has not redeemed the unit, then the winning bidder will receive a Marshal's Deed to the unit.

A winning bidder should be aware that she may or may not need the assistance of a lawyer to complete the process after the sale. Neither the bank nor the COA is obligated to provide that assistance.

A Final Word: Marshal's auctions can be exciting and can sometimes result in a "good deal." But success depends on preparation.

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1/12/2023