

## LePatner & Associates Hosts Executive Seminar for Industry Leaders

## EXPERT PANEL DEBATES NYC'S REAL ESTATE AND ECONOMIC OUTLOOK

**L**ePatner & Associates and co-sponsors the Rampart Group, Berdon LLP and Sterling National Bank joined forces in June to host an executive seminar for real estate, design and construction professionals entitled, **Real Estate Outlook: Are We Entering a New Economic Cycle?**

Two hundred leading industry executives flocked to the University Club on Fifth Avenue to hear a panel of experts sound off on the factors and global influences affecting the United States economy. On a more local level, panelists discussed what these influences mean for New York — and how they affect the tough decisions made by real estate and construction industry executives on a daily basis.

Moderated by Barry B. LePatner, founder of LePatner & Associates, the panel included Rosemary Scanlon, an economics professor and urban affairs expert at New York University's Real Estate Institute, John Powers, chairman of the New York Tri-State Region of CB Richard Ellis, and Stuart Match Suna, co-owner and president of Silvercup Studios.

Panelists also addressed current economic conditions in the Big Apple. Amid signs indicating that New York's economy is about to enter a transitional period, participants offered their informed opinions about what a new economic cycle would mean for New York — and how it would affect such hot-button issues as prices, population growth and construction expansion.

*Continued on next page*

Panel Experts from left to right, Rosemary Scanlon, Stuart Match Suna, moderator Barry LePatner, and John Powers.



continued from p1

The first speaker, Rosemary Scanlon, presented an analysis framing the New York Metro area's economic outlook in the context of national business trends and broad economic forces.

"We have some conflicting signals on the US economy," she said. "The jobs picture is astonishingly weak, real consumption seems to be going down and yet some of the other indicators like corporate profits are high. Whether that means that we'll have more business investment to take up the slack of housing investment remains to be seen."

Ms. Scanlon explained that despite some less positive indicators on a national level, New York City's housing market is reaching unprecedented heights.

"Whether we look at job creation, income growth, or the fact that we've got such a pent-up housing demand – there may be a little froth at the top of the market. We have substantial construction projects underway and in planning. I haven't seen anything like that in 30 years in New York."

However, she also explained that a rise in immigration could possibly strain available resources for the construction of more housing.

One of the most-well regarded strategists in the commercial real estate field, John Powers spoke about specific ways that overall economic conditions drive the business choices made by real estate and design and construction professionals.

"Things are moving very fast and very well in the New York real estate market," he said. "The amount of money in the market chasing deals and significant profit-taking opportunities after three strong years will create high volume and record prices again this year, notwithstanding the residential peak, the higher interest rates and the flat yield curve."

Mr. Powers indicated that leasing activity in Manhattan has picked up, noting that "we've had a declining vacancy rate in Manhattan for the last twelve months and significant increases in the asking and taking deals. In Midtown, we did not match the velocity that was achieved in 2004 – a record for Midtown – but certainly had



Left to right: Barry LePatner, Rosemary Scanlon, John Powers, and Stuart Match Suna

Photo © Steve Friedman

## The LePatner Real Estate Economic Forecast Survey™ Results

The 200+ attendees at the seminar were asked the following survey questions on where they believed the New York City real estate market sectors and general economy were headed by the end of 2006. Approximately 115 industry executives and leaders responded:

	OFFICE	MULTIFAMILY	RETAIL	HOTEL
<i>Improve Significantly</i>	23%	13%	14%	22%
<i>Improve modestly</i>	49%	44%	37%	44%
<i>Stay the same</i>	20%	20%	31%	21%
<i>Decline modestly</i>	8%	20%	18%	14%
<i>Decline significantly</i>	—	3%	—	—

	Interest rates will:	The stock market will:
<i>Increase Significantly</i>	16%	4%
<i>Increase modestly</i>	74%	36%
<i>Stay the same</i>	7%	23%
<i>Decline modestly</i>	2%	30%
<i>Decline significantly</i>	—	6%

velocity in 2005 at 15 million square feet, which has continued at that level during the first quarter of this year."

Even the supply of large blocks of space has been on the decline "over the last few years, especially last year," he said. "In one year, we've eliminated almost two million square feet and moved the total number of blocks down from 28 to 19, of which four have leases out and several more are seeing significant activity."

Finally, Stuart Match Suna presented a case study reflecting Silvercup's confidence in New York City's economic future: the newly approved Silvercup West, a \$1 billion TV/film production and mixed-use complex in Long Island City in Queens, designed by world-renowned architect Sir Richard Rogers.

"New York City is at a real tipping point, and it is really looking at an opportunity to expand beyond just Manhattan," said Mr. Suna. "We see development as far as Queens West, which has really taken off – Rockrose, Avalon, everybody's building over there. Citibank is building and breaking ground for its next 1.4 million square feet – there are a lot of things going on in this CBD."

"Alan and I were looking to expand the studio facilities, but we needed more land to expand," explained Mr. Suna.

But a standard studio expansion wasn't what he and his brother, Alan Suna, had in mind.

"As architects and developers, we thought that it would be exciting to do a mixed-use, 24/7 facility," said Mr. Suna. "We really took a big leap of faith and as architects, we wanted world-class architecture. One of the things we're working on with Richard Rogers is a new vision of life, work and leisure."

The seminar was the most recent in an annual series hosted by LePatner & Associates and its partners. The firm thanks its panelists, co-sponsors and guests for contributing to its success. ■

# EXCERPTS from the EXPERTS



Photo © Steve Friedman

**Rosemary Scanlon.** Associate Professor of Economics at the Real Estate Institute of New York University and consultant in urban and regional economics.

“...The New York City population has been growing. You remember the dark days after 9/11 when we worried about people moving out of the City, but that has not happened. Our jobs are doing actually pretty well, our whole leisure and hospitality industry is back in business, and we have a strong situation with the art and cultural sector....”

“The city’s fiscal situation is strong. The mayor’s ending the year with at least a \$3.5 billion surplus and he’s been able to put some aside for the future....”

“Something that’s different about

NYC is – at the national level home-ownership is up to about 70% – only 30% of NYC households are owner-occupied. However, we do have substantial construction projects, and I haven’t seen anything like that in 30 years here....”

“We are on our own trajectory here in New York. Whether we look at job creation, income growth, or the fact that we’ve got such a pent-up housing demand, it’s really different from what’s been going on in some other metropolitan areas. I think for New York, it’s still a very optimistic situation....”



Photo © Steve Friedman

**John Powers.** Chairman of the New York Tri-State Region of CB Richard Ellis, the world’s largest commercial real estate services firm with \$2.9 billion in revenue in 2005.

“Things are moving very fast and very well in the New York real estate market. There is more REIT activity, and the multifamily market is very active, although it may have peaked. We’ve seen significant momentum in the office market, and especially in the hotel market. Office and hotel development cannot compete with zoning overlaps, a first for New York...”

“We see significantly more leasing and demand from the big players in the financial service industry in New York. That’s going to put pressure on the market, because these firms are in high-margin businesses. And when they need

space, they take it at any price....”

“In Midtown, there’s a flight to quality, and the top buildings will garner increasingly higher rents during the balance of this cycle. There are very few sites available in Midtown today, and the only viable alternative is the development of the West Side below Times Square....”

“Downtown finally reached an inflection point last year where availability was dropping and prices slowly starting to rise. The residential conversions are eliminating some of the oldest office buildings from the stock and are working to advance Downtown’s quest to become a true 24/7 environment....”



Photo © Steve Friedman

**Stuart Match Suna.** Co-owner and president of Silvercup Studios in Long Island City, New York’s largest full-service film and commercial production center.

“New York City is really at a tipping point and really looking for an opportunity to expand beyond Manhattan. This fits into Silvercup’s whole vision in Long Island City. In the CBD [*Central Business District*], you have 20 million square feet of development...and another seven and a half million square feet of development along the Queens waterfront....”

“The mayor has really done a wonderful job with realizing that the film and television industry is a boost for New York’s tourism. Because people from all over the world watch shows that

are about New York, like “The Sopranos” and “Sex and the City,” they want to come see New York. New York’s tax credit program helped the city get ten new pilots this year, and Silvercup has four new network TV shows....”

“As architects and developers, we thought that it would be exciting to do a mixed-use, 24/7 community surrounding the facility. It will bring thousands of jobs into the borough, both in construction and permanent jobs. By breaking down those barriers – the physical, social and economic barriers – we see this as a real way of New York City growing into the future.”

# LePatner Construction Satisfaction Survey™ Results

New York City construction activity remains strong, but how satisfied are owners and designers with builders' performance? The aim of the inaugural LePatner Construction Satisfaction Survey is to derive meaningful trends and other valuable information by asking such questions.

Those in the real estate, design and construction industry can easily find data reflecting the spike in land, labor and material costs, but what about other equally important metrics such as whether projects are completed on time, on budget and without costly delays and disputes?

Our initial findings confirm construction costs significantly increased, designers' fees increased slightly (if at all), and a majority of projects are not completed on time. While construction costs

and land acquisition were predictably chosen as the top development challenges, we were surprised that "approvals hurdles" ranked a close third. And despite about 40% of respondents reporting some to strong dissatisfaction with their CM's pre-construction services and a decrease in CM cooperation once construction began, an overwhelming majority were at least satisfied with their CM's overall performance. It appears that contractors benefit from the same rationalization that allows us to proclaim deep dissatisfaction with Congress, yet rarely vote out our local incumbents.

A sincere thank you to those who participated in our inaugural survey. As always, your comments and suggestions are welcome as we aim to build upon these findings in future surveys.

1. How have design consultant fees changed?  
5% Decreased  
33% About the same  
**54% Increased 5-10%**  
8% Increased more than 10%
2. Which is the greatest development challenge?  
23% Approval hurdles  
**30% Land acquisition**  
10% Financing  
8% Design issues  
**29% Construction costs**
3. How have construction costs changed?  
3% Decreased slightly  
27% About the same  
**50% Increased 10-20%**  
20% Increased more than 25%
4. How did the bid price or GMP compare with preliminary construction cost estimates?  
3% No preliminary cost estimate  
7% Less than the estimate  
25% The same or slightly more  
32% More: had to make some adjustments  
**33% Significant value-engineering required**
5. Was overall project cost over or under budget?  
1% Under budget  
17% Approx. on budget (+/- 5%)  
**48% Slightly over budget (5-10%)**  
33% Over budget (11-25%)  
1% More than 25% over budget
6. With respect to the workmanship and amount of time required to achieve final completion, do you believe your final construction cost was:  
4% A good value – better than expected  
**54% About what I expected**  
37% A little worse than I expected  
5% Much worse than I expected
- 7a. How satisfied were you with the pre-construction services your CM performed?  
15% No pre-con services utilized  
2% Very satisfied – saved significant money  
37% Mostly satisfied – some cost savings, met expectations  
**40% Somewhat dissatisfied – some inaccuracies in estimates and schedules**  
6% Strongly dissatisfied – major inaccuracies in estimates adversely affected project
- 7b. If the pre-con CM was retained to construct the project, did you perceive a change in attitude or cooperation once construction began?  
21% No change noticed.  
**38% Some change for the better**  
35% Some change for the worse  
6% Significant change for the worse
8. Per the contract, was the project completed:  
3% Ahead of schedule  
**41% Approximately on schedule (+/- 5%)**  
31% Slightly over schedule (5-10% late)  
20% Over schedule (11-25% late)  
5% Way over schedule (more than 25% late)
9. If you faced claims for extras or delays from the CM/GC, how were they resolved?  
**70% Negotiated and settled without lawyers**  
20% Litigation started but eventually settled before mediation, arbitration or trial  
4% Settled through mediation  
4% Settled through arbitration  
2% Trial verdict or settled at trial
10. Overall, how satisfied were you with the performance of your construction team?  
4% Very satisfied: highly recommend  
40% Mostly satisfied: met expectations  
**44% Average: some ups and downs and not overly impressive**  
12% Somewhat dissatisfied: some problems and probably would not use them again  
0% Strongly dissatisfied: caused major, negative impact to the project

## F I R M N E W S

Barry LePatner was selected to appear in the construction litigation section of *New York Magazine's* prestigious **New York Area's Best Lawyers** list based on survey data from the 2007 edition of *The Best Lawyers in America*, one of the nation's most highly regarded legal referral guides. Every year, *Best Lawyers* undertakes an exhaustive, nationwide regimen of peer reviews through which top lawyers in the country confidentially rate others in their profession.

Partner Alex Ferrini authored articles that were recently published. "Air Tight," on the importance of good contracts for young design firms, appeared in the July 2006 *Contract* magazine, and "Coping Strategies in the Post-Surety Bond Environment" appeared in the June 2006 *New York Construction*. Alex will also present "Building the Effective Project Team" at the upcoming annual New York State School Boards' Association meeting on October 28.

LePatner is preparing and negotiating the construction agreements for The Edge, a \$400 million Brooklyn development on the East River financed by client, UBS, who has partnered with Levine Builders for what is being billed as the first mega-development along the newly re-zoned Williamsburg riverfront.

The firm enjoyed its first ever bowling outing July 28 at Bowlmor Lanes. Despite the day-glo lighting, Barry LePatner displayed his bowling prowess, taking high score for the evening.

### QUOTE OF THE QUARTER

"I don't know the key to success, but the key to failure is trying to please everybody."

Bill Cosby

### LEPATNER REPORT

IS A PUBLICATION  
OF THE LAW OFFICES OF

LEPATNER & ASSOCIATES LLP  
600 LEXINGTON AVENUE - 21ST FLOOR  
NEW YORK, NEW YORK 10022  
(212) 935-4400

E-MAIL: [MAIL@LEPATNER.COM](mailto:MAIL@LEPATNER.COM)  
WWW.LEPATNER.COM

© 2006, BARRY B. LEPATNER, ESQ.  
ALL RIGHTS RESERVED.