

The Closing Word

A Sutton Alliance Publication

Why Is Everyone Talking About Social Media?

Social media is taking the world by storm at the moment, and people can't get enough of social networking sites like Twitter, Facebook, LinkedIn, YouTube and other sites. Simply put, social media is "people having conversations online." It encourages user participation and social interaction through the use of words, pictures, videos, and audio.

From both personal and business perspectives, people are using these sites to develop relationships, create sales opportunities, ask questions, respond to problems, find tips and resources, and keep updated on the latest news.

So why should you care?

- 3 out of 4 Americans use social technology (*Forrester, The Growth of Social Technology Adoption, 2008*).
- Visiting social sites is now the 4th most popular online activity – ahead of personal email (*Nielsen Global Faces & Networked Places, 2009*).
- If Facebook were a country, it would be the 8th most populated country in the world, just ahead of Japan (*Mark Zuckerberg, Co-Founder of Facebook, January 7, 2009*).
- Social media is like word-of-mouth on steroids. Most people trust the recommendations of their friends and other consumers.

Sutton Alliance is now on Facebook and Twitter.

Connect with Us.

At Sutton, we want to connect with you to help you with your

business. That's why we're on Facebook and Twitter – so you can connect with us anytime, anywhere. Come join the conversation. (Click below.)



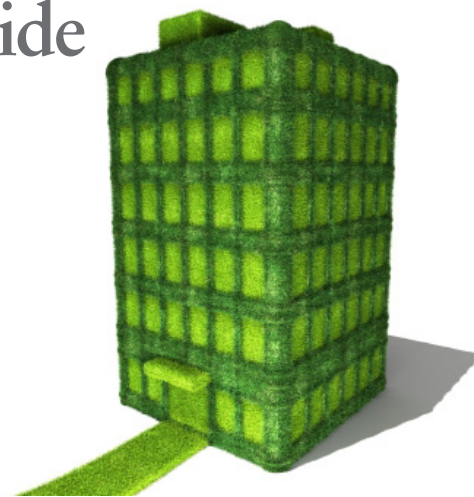
[http://www.facebook.com/search/Sutton Alliance](http://www.facebook.com/search/Sutton+Alliance)

<http://twitter.com/suttonalliance>

News from Sutton Land Title Agency

The Building May Be Greener On The Other Side Of The Street.

The future of green buildings is now. Already commonly reported in the press and on the news are stories about how to reduce your building's carbon footprint, or about sustainable development, or LEED and Energy Star Certifications, or Green Financing and Green Tax Incentives.



There are green building laws already on the books of state and local municipal governments. Public policy is that greener building promotes cost effective steps to create significant economic and environmental impact, and it creates jobs, saves money, improves our environment, and stimulates the economy.

Local municipal governments are taking the lead in the area of green building by offering tax incentives or tax credits and special financing to new builders who use energy efficient materials in their construction, and to existing building owners who retro-commission their buildings and install new more energy efficient HVAC, electric, and lighting systems.

The Town of Babylon adopted the LEED Rating System as the standard for its building code. Every applicant for a building permit shall pay a fee of \$0.03 per square foot of the project, not to exceed \$15,000, to the Town of Babylon Green Building Fund. An applicant who achieves LEED Certified status shall have this fee refunded.

New York City already has a six point plan to improve energy efficiency in existing buildings, commonly called Greener, Greater Buildings Plan, and includes a New York City Energy Code; Lighting Upgrades and Sub-metering; Benchmarking; Audits and Retro-Commissioning, Green Workforce Development Training, and Green Building Financing.

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“Inevitably, the logjam will break, and we will again have transactions.”



Howard J. Kopel, Esq.
Founding Member &
Chief Executive Officer
Sutton Alliance

Dear Clients and Friends,

It has been a while since my last message, and lots of water has gone under the economic bridge, some of it brackish, to continue the metaphor. Quite clearly, some of my early optimism has been proven incorrect. To take just one example, consider investment money flowing into New York commercial real estate. Any business would consider a 25% decline in activity disastrous. Yet statistics show that there was a decline in this area from the first half of 2007 to the first half of 2009 of over 90%! Those of us dependent on commercial transactions are in shock.

A flip response to these conditions is that “at least it can’t get any worse.” Somehow this, while undoubtedly true, isn’t very satisfying at all. However, that doesn’t mean that there isn’t some truth and, perhaps, a measure of comfort to be derived from this truism. Some markets are doing better. As prices have declined, there have even been bidding wars for some residential properties. We have all heard that there is a veritable wall of cash just waiting on the sidelines for opportunities. However, price discovery is a long process in this recovery, and buyers, sellers, and banks are all waiting for each other to move first. Inevitably, the logjam will break, and we will again have transactions. However, the wait is no fun.

Those of us that went through the last crash, in the early 90’s have seen this movie before, and know how it ends. Some intrepid early actors will make fortunes, activity will build, along with an economic recovery, and one day we will all wake up to realize that the world hasn’t ended, after all.

I still believe that the worst is behind us. We at Sutton will continue to invest in our company. We have been around since 1985, and we plan to be around much longer to serve all of our loyal clients and friends.

Sincerely,

A handwritten signature in red ink that reads "Howard J. Kopel". The signature is fluid and cursive.

Chief Executive Officer
Sutton Alliance

Meet The Team



Howard Kopel
CEO, Sutton Alliance

At Sutton, our commitment to excellence and personal service starts at the executive level with CEO and Nassau County Legislator, Howard Kopel, and is one of the many reasons our business has been successful for over 25 years.

An experienced attorney in litigation, corporate and real estate law, Howard founded Sutton Alliance in 1985, after starting his career as an in-house attorney with Con Edison and other corporations, and then going into his own private practice in 1983.

“Over the years we grew to over 250 professionals, at our high point, with a talented in-house legal team who have regional and national, commercial and residential title capabilities,” Howard says. “Top law firms, institutional lenders, builders, brokers, and developers continue to put their trust in Sutton because they know no matter how complex the transaction – or where the property is located – we have the know-how and the nationwide network to get the deal done right the first time, every time.”

Howard is also personally committed to the region’s community and is currently serving his first term as Legislator for the 7th District of Nassau County, an area which he has called home for more than 20 years. In a stunning upset that gave Nassau Republicans control of the county legislature for the first time in a decade, Howard unseated five-term Democratic incumbent Jeffrey Toback by over 1,200 votes/ten percentage points last November.

Honesty and fiscal fairness for the people was one of the top goals driving Howard’s campaign and candidacy. He is committed to solving Nassau County’s fiscal problems – but not on the backs of hardworking families and taxpayers.

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RESPA Reform 2010.

On November 17, 2008, the United States Department of Housing and Urban Development (“HUD”) published new Real Estate Settlement Procedures Act (“RESPA”) regulations. According to its website, “RESPA is a HUD consumer protection statute designed to help homebuyers be better shoppers in the home buying process, and is enforced by HUD.” RESPA applies to all federally related mortgage loans and the new regulations were implemented in phases. The final phase, which will be the focal point of this discussion, went into effect January 1, 2010, and involves some major changes that affect the closing/settlement practice.

Beginning Jan 1, 2010, lenders are required to use the newly redesigned Good Faith Estimate (“GFE”) form. The GFE is an estimate of settlement charges a borrower is likely to incur on a specific loan. The lender must issue the GFE within three days of receipt of the borrower’s completed loan application. Previously, lenders would provide somewhat deflated figures

on the GFE in an attempt to attract borrowers seeking to obtain a loan. Borrowers would often be surprised at settlement to find closing costs much higher than those provided to them on the GFE. HUD was intent on reversing this trend and now limits certain changes, even prohibiting others from the issuance of the GFE to settlement.

HUD has grouped settlement charges into three categories, or buckets. Costs in the first bucket, such as transfer taxes and loan origination charges, have a zero tolerance policy. If, at closing, any of these charges increase from the disclosed figures on the GFE, the lender would be in violation and would be required to reimburse the borrower the difference within thirty days of settlement. The second bucket contains fees such as government recording charges, title services and insurance, and lender required services (e.g., appraisal). This bucket has a 10% tolerance for increases if the lender recommended the service provider on a written list of preferred providers. This percentage



is calculated by the aggregate increase of charges in this category. While one individual charge may rise by more than 10%, provided that the overall increase of this bucket is less than 10%, the lender is not in violation. If any of these services were selected by the borrower, then those charges would be in the third bucket. Charges in the third bucket have no cap and may change limitlessly from the GFE to closing. In addition to borrower selected title services, the third bucket includes homeowner’s insurance, an initial escrow deposit, and daily interest charges.

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This GFE estimates your settlement charges. At your settlement, you will receive a HUD-1, a form that lists your actual costs. Compare the charges on the HUD-1 with the charges on this GFE. Charges can change if you select your own provider and do not use the companies we identify. (See below for details.)

These charges cannot increase at settlement:	The total of these charges cannot increase up to 10% at settlement:	These charges can change at settlement:
<ul style="list-style-type: none"> ■ Our origination charge ■ Your credit or charge (points) for the specific interest rate chosen (after you lock in your interest rate) ■ Your adjusted origination charges (after you lock in your interest rate) ■ Transfer taxes 	<ul style="list-style-type: none"> ■ Required services that we select ■ Title services and lender’s title insurance (if we select them or you use companies we identify) ■ Owner’s title insurance (if you use companies we identify) ■ Required services that you can shop for (if you use companies we identify) ■ Government recording charges 	<ul style="list-style-type: none"> ■ Required services that you can shop for (if you do not use companies we identify) ■ Title services and lender’s title insurance (if you do not use companies we identify) ■ Owner’s title insurance (if you do not use companies we identify) ■ Initial deposit for your escrow account ■ Daily interest charges ■ Homeowner’s insurance

The Building May Be Greener On The Other Side Of The Street. *continued from the cover*

So why go green? The answer is clear, it's because going green is good business. Green buildings save owners money by having reduced operation and maintenance costs and lower utility bills. Green buildings use energy resources, water, materials, and land more efficiently and effectively. The vacancy rate in green buildings is generally lower as landlords can attract and retain tenants by passing off their operating efficiencies to their tenants by ways of lower rents and by offering tenants a healthier place to live and work.

What is Retro-commissioning? It is a process that improves the energy efficiency performance of existing building systems and usually pays for itself in one year or less. It requires proper calibration of heating, ventilation, and air conditioning controls and sensors. It requires cleaning and repair of HVAC equipment, filters, and light fixtures. It mandates the replacement of outdated heating and air conditioning systems and lighting systems with new LEED or Energy Star certified HVAC and lighting systems.

What is LEED? We have all been hearing about LEED. It was developed by the US Green Building Council (USGBC), and according to the USGBC website, LEED is an internationally recognized green building certification providing third-party verification that a building or community was designed and built using strategies aimed at improving performance across all the metrics that matter most: energy saving, water efficiency,

CO2 emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impact.

Who uses LEED? Architects, real estate professionals, facility managers, engineers, interior designers, landscape architects, construction managers, lenders, government officials, and attorneys.

“As green building grows, green litigation also becomes more likely.”

As green building grows, green litigation also becomes more likely. Owners want to “go green” however construction professionals and builders should be weary of promising to achieve a certain accreditation because of the unpredictability of certification.

Owners may be interested in green building for energy savings or for achieving a specific level of LEED certification. What if those savings don't materialize or the building fails to achieve the anticipated LEED Certification level? What if the project fails to obtain green building tax incentives?


The Owner may sue the builder, architect, product or materials

manufacturer for the disappointing performance. The owner may blame and sue one or all of the parties and bring an action for breach of contract and negligence against the builder hired to do the construction.

Unfortunately, there isn't much green building litigation out there for studying to help owners, designers, and



contractors safely engage themselves in a green building project. However, the liability of parties for failure to achieve a green building certification will surely be determined by the relevant contracts or related promises. The movement toward green building will continue, but it's important to obtain qualified and informed counsel to help minimize the growing risks of going green.

Contact Scott Spinner at 516.837.6109 



Coming To A Successful Close.

Due to the state of the economy, the landscape of the real estate and title insurance industry has changed and many companies have been unable to adapt. While the volume of refinance and commercial transactions has slowed, REO (Real Estate Owned) properties are dominating the marketplace and lenders are actively seeking title companies that can handle their default portfolios. For many years, foreclosed properties would sell at auction to third parties, but with the decline in property values and lack of cash flow from investors, lenders are forced to take ownership of these properties. As soon as the hammer falls, the lender begins the long process of preserving, marketing, and eventually selling the property.

At Sutton, we are providing our clients with the tools to compete and succeed in the default market through our Performance Guarantee that accomplishes the three ultimate goals of our clients – Stay Informed, Close Quickly, and Close Cost-Effectively.

The first phase of our Performance Guarantee begins as soon as the title order is placed. The title company plays a large role in making sure the property is sold quickly, at the highest price, and free of liens and encumbrances. Before the property is listed, and sometimes even before the foreclosed owner has been evicted, the lender conducts a title search as it is imperative to the process that they are made aware of possible title issues early on.

As soon as the title search comes in, the title review group begins actively working on clearance, so when the

property goes into contract we are able to close within the average 20-30 day contract period. Since these properties have all been through at least one foreclosure cycle, the title searches tend to be more complex and riddled with potential title issues that our title experts are trained to recognize and clear.



“We are providing our clients with the tools to compete and succeed in the default market through our Performance Guarantee.”

The next phase of our Performance Guarantee commences once the property goes under contract. The contract negotiations that take place on an REO property differ from a standard purchase transaction as the seller has already defined the terms of the contract and are typically not willing to change them. When a potential buyer will not agree to the pre-set terms of the REO contract, the seller will quickly move on to another buyer. We ensure that the buyer's representatives are aware of the expectations of the seller through constant communication with all parties.

Once the contract is finalized and title is clear, there are still many

hurdles to overcome, especially when the buyer is obtaining a mortgage. Given the economic climate, financial institutions are reluctant to lend even under perfect circumstances, so it is almost impossible for the buyer to be approved and cleared to close within the contract period. The REO contract provides that the buyer must close within thirty days, and delays beyond that point, through no fault of the seller, can result in per diem penalties.

When the property is finally ready to close, the last phase of our Performance Guarantee commences as we work with the brokers, lenders, and attorneys to ensure that the HUD-1 statement is prepared, approved and sent to closing, and funds are received within 24 hours of closing. The HUD-1 approval process can be lengthy and provoke discourse as the fees that are standard and customary on a REO transaction differ from a traditional purchase transaction. In finalizing the closing documents, we work diligently to represent the best interests of our clients and protect them from both a legal and economic standpoint.

In addition to REO services, Sutton has expanded its line of default title and settlement services to include short sales. As demand grows for alternatives to foreclosure, we have put tools, systems, and clearly defined processes in place to meet the unique challenges of a short sale. Look for more information about this topic in our next newsletter.

Contact Valerie Rohling at 516.837.6115

Branch Offices:

Matawan, NJ Port St. Lucie, FL
877.656.9954 877.556.7594

Seamless Transactions. Serious Service.

RESPA Reform 2010. *continued from page 3*

The HUD-1 Settlement Statement (“HUD-1”) form is also new and was designed for a simple and clear comparison with the GFE. The first page features only minor formatting changes from the old HUD-1. The differences become apparent on the second page. Each line of the HUD-1 now references precisely the section of the GFE in which the charge appeared. The manner in which charges are reflected in the columns has evolved as well. Many charges in the columns are now ‘rolled up’. For example, Line 1101, which amount appears in the column, totals all title services and lender’s title insurance. While on the old form, all title services and insurance charges were individually listed in the columns, the new HUD-1 lists the charges outside the columns and only the total charge appears in the column. The same is true for government recording charges (Line 1201) and transfer taxes (Line 1203).

Another change involves the disclosure of the insurance premium split between the title agent and underwriter. This breakdown is now required to be shown on the HUD-1, inside the columns, to give borrowers a better understanding of all their costs.

“More time is necessary to prepare and review all of the documents, and increased communication between lenders and settlement agents are necessary.”

What is most distinguishable about the new HUD-1 is the addition of a third page. The top half of the third page consists of a chart which offers a line by line comparison of charges, as initially disclosed on the GFE, and now actually incurred at settlement.

The chart even illustrates the percentage difference between the GFE and HUD-1 so borrowers can clearly see what charges, if any, have changed from the GFE. The bottom portion of the third page summarizes key loan information, including the loan amount, loan term, interest rate, and initial monthly payment.

Borrowers, lenders, and attorneys are still adjusting to the new regulations. More time is necessary to prepare and review all of the documents, and increased communication between lenders and settlement agents are necessary. To accurately issue a GFE, the lender must consult with the settlement agent and title company for an estimate of charges. Similarly, the HUD-1 now cannot be completed without a copy of the GFE, as these figures are necessary for the third page.

Contact Aaron Schlüsselberg at 516.837.6239

Meet The Team — Howard Kopel *continued from page 2*

On his first day as legislator, Howard made good on a campaign promise as he saw his predecessor’s unfair and burdensome 2.5% tax on all forms of home heating energy repealed. Howard plans to restore our communities to once again be a safe, beautiful, and affordable area to live, work, and play. He intends to work on changing the flawed Property Assessment system, putting Nassau County’s fiscal health in order, as well as working towards a solution to the previously intractable sewage

problems which threaten the health and finances of different areas within the 7th Legislative District.

“I ran for office because I believe that I can provide a real contribution to the county legislature,” he explains. “My skills and experience as an executive responsible for profitability of a business with many employees and national reach will enable me to have a positive impact on the financial mess perpetrated by a Democrat



controlled legislature for the past decade. I look forward to representing all the people of the district, working with our new county executive and the legislature to reduce property taxes, reduce spending, and cut the energy tax.” Howard can be reached at 516.837.6103.