

JUL 19 2019

STATE OF NEW YORK
JOINT COMMISSION ON PUBLIC ETHICS

540 Broadway
Albany, New York 12207

In the Matter of Toll Brothers, Inc. and Toll Brooklyn LP,

Respondents.

SUBSTANTIAL BASIS INVESTIGATION REPORT
AND SETTLEMENT AGREEMENT

Case No. 17-002

WHEREAS, the Joint Commission on Public Ethics ("Commission") is authorized by Executive Law § 94 to conduct an investigation to determine whether a substantial basis exists to conclude that any violations of Article 1-A of the New York State Legislative Law (the "Lobbying Act") have occurred, to issue a report of its findings of fact and conclusions of law, and to impose penalties for any violation;

WHEREAS, this Settlement Agreement ("Agreement") is entered into by and between the Commission and Toll Brothers, Inc. ("Respondent") and its subsidiaries;

WHEREAS, Toll Brothers, Inc., and its subsidiary Toll Brooklyn LP ("Respondents"), were registered as clients of lobbying firms for over a decade and are therefore subject to the jurisdiction of the Commission and the proscriptions set forth in the Lobbying Act;

WHEREAS, in 2015, Respondents had a real estate development project underway in the Borough of Brooklyn which was subject to review by and required approvals from New York City agencies and officials;

WHEREAS, the Campaign for One New York ("CONY") was a 501(c)(4) not-for-profit entity formed in 2013 following the election of the Mayor of the City of New York, Bill de Blasio ("the Mayor"), by three former election campaign workers for the Mayor – Bill Hyers, Ross Offinger and Stephanie Yazgi to advocate for the benefit of the City of New York by informing the public and policymakers about legislative and public policy initiatives and from which the Mayor sought and obtained support for his legislative and policy objectives, including universal pre-K;

WHEREAS, § 1-m of the Lobbying Act prohibits any lobbyist from offer[ing] or giv[ing] a gift to any public official, unless under the circumstances it is not reasonable to infer that the gift was intended to influence such public official and Part 934 of Title 19 of the New York Codes, Rule and Regulations further provides that a gift may not be given to a third party, including a charitable organization, on behalf of or at the designation or recommendation of a public official, when such gift cannot be offered or given to the Public Official;

WHEREAS, the Commission sent a letter to Toll Brothers Inc. and Toll Brooklyn LP, which afforded them a period of 15-days to respond to allegations that they violated § 1-m of the

JUL 19 2019

Lobbying Act and Respondents submitted its response addressing the legal and factual issues involved;

WHEREAS, the Commission voted to commence a substantial basis investigation in this matter on February 28, 2017;

WHEREAS, the Commission served Respondents with a Notice of Substantial Basis Investigation and Hearing on March 13, 2019; and

WHEREAS, Respondent and the Commission, the parties to this Agreement, have agreed to resolve this matter in a manner that avoids additional administrative and/or adjudicatory proceedings;

NOW THEREFORE, in consideration of the mutual covenants made herein, as the final settlement of this matter, the parties stipulate and agree that:

1. At all times relevant to this matter, Respondent, on its behalf and that of its subsidiaries, had retained lobbyists to lobby officials of the City of the New York.
2. In March 2015, the Mayor directly asked an executive employed by Respondent to make a contribution to CONY. Shortly thereafter, Respondent donated \$25,000 to CONY.
3. Respondents acknowledge that § 1-m of the Lobbying Act prohibits a lobbyist or a lobbying client from giving a gift to a public official, unless under the circumstances it is not reasonable to infer that the gift was intended to influence such public official; Part 934 of Title 19 of the New York Codes, Rule and Regulations, effective June 18, 2014, provides that a lobbyist or a lobbying client cannot give a gift to a third party, including a charitable organization, on behalf of or at the designation or recommendation of a public official, when such gift cannot be offered or given to the Public Official under the Lobbying Act.
4. Respondent agrees to pay to the Commission the amount of fifteen thousand dollars (\$15,000.00) in settlement of these matters against Respondents, their subsidiaries and affiliates, within thirty (30) days of the execution of this Agreement.
5. The Commission has agreed to the terms of this Agreement based on, among other things, the representations made to the Commission by Respondents. To the extent that representations made by Respondents are later found by the Commission to be materially incomplete or inaccurate, Respondents shall be in breach of this Agreement.
6. If Respondents fail to timely perform any conditions set forth in the Agreement, Respondents shall be in breach of this Agreement.
7. Respondents agree not to take any action or to make, permit to be made, authorize, or agree to any public statement denying, directly or indirectly, any finding in this

JUL 19 2019

Agreement or creating the impression that this Agreement is without factual basis. Nothing in this paragraph affects Respondents': (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Commission is not a party. A violation of this Paragraph constitutes a breach of this Agreement by Respondents.

8. Upon a breach of this Agreement, the Commission shall have sole discretion to deem the Agreement null and void in its entirety, issue a new Notice of Substantial Investigation and Hearing, which may include additional charges against Respondents and proceed with an enforcement action, and then issue a new Substantial Investigation Report; or to deem the Respondents in breach of this Agreement and pursue, in court, any other remedy to which the Commission is entitled at law or in equity, including but not limited to, specific performance or injunction. As to any new Notice of Substantial Investigation and Hearing or enforcement action by the Commission pursuant to this paragraph: (1) Respondents waive any claim that such action, as it relates to conduct that has been the subject of this matter, is time-barred by a statute of limitations or any other time-related defenses; and (2) Respondents expressly acknowledge and agree that the Commission may use any statements herein, or any other statements, documents or materials produced or provided by Respondents prior to or after the date of this Agreement, including, but not limited to, any statements, documents, or materials, if any, provided for the purposes of settlement negotiations or in submissions by Respondents or by counsel on behalf of Respondents, in any proceeding against Respondents relating to the allegations herein.
9. Respondents shall upon written request by the Commission, provide all documentation and information reasonably necessary for the Commission to verify compliance with this Agreement.
10. Respondents understand and acknowledge that the Commission may investigate any other conduct, not covered by this Agreement, by Respondents and take any appropriate action.
11. Respondents waive the right to assert any defenses or any challenges to this Agreement, as well as any right to appeal or challenge the determination or conduct of the Commission relating to this matter in any forum.
12. This Agreement and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflict of laws principles.
13. Respondents consent to the jurisdiction of the Commission in any proceeding to enforce this Agreement.
14. It is understood that this Agreement is not confidential and will be made public within 45 days of its execution in accordance with Executive Law §§ 94(14) & (19).
15. This Agreement constitutes the entire agreement between the parties and

JUL 19 2019

supersedes any prior communication, understanding, or agreement, whether oral or written, concerning the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth in this Agreement has been relied upon by any party to this Agreement.

16. Any amendment or modification to this Agreement shall be in writing and signed by both parties.
17. This Agreement shall become effective upon execution by the Commission or its designee.
18. In the event that one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
19. By signing below, Respondents acknowledge reading this Agreement in its entirety, understanding all terms and conditions of this Agreement, and having done so, knowingly, voluntarily, and freely enters into this Agreement. Electronic signatures shall be deemed original for this Agreement. This Agreement may be executed in two or more counterparts, each of which shall be deemed original, but all of which together shall constitute one and the same instrument. Respondents were represented by Benjamin Gruenstein of Cravath, Swaine & Moore LLP.

Dated: 8/7/19



New York State Joint Commission on Public Ethics

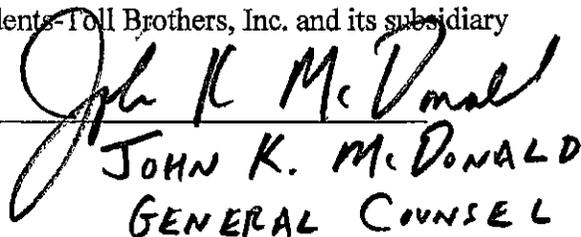
ACCEPTED AND AGREED TO
THIS 8th DAY OF JULY, 2019

Respondents Toll Brothers, Inc. and its subsidiary

By:

Name:

Title:



JOHN K. McDONALD
GENERAL COUNSEL

Approved:

Robert Cohen
James E. Dering
Colleen C. DiPirro
William P. Fisher
Julie A. Garcia
Marvin E. Jacob
Gary J. Lavine
James W. McCarthy
David J. McNamara
George H. Weissman

Members

Daniel J. Horwitz
Michael K. Rozen, Chair
James A. Yates

Absent