

1 MUNDELL, ODLUM & HAWS, LLP  
 2 KARL N. HAWS, #121638  
 3 MARSHALL L. BRUBACHER, #199100  
 4 JIM C. MOORE, #236680  
 5 650 East Hospitality Lane, Suite 470  
 6 San Bernardino, CA 92408-3595  
 7 Phone: (909) 890-9500  
 8 Facsimile: (909) 890-9580  
 9 E-Mail: khaws@mohlaw.com  
 10 mbrubacher@mohlaw.net  
 11 jmoore@mohlaw.com

12 REGIONAL COUNSEL FOR TOLL BROS. INC.  
 13 TIMOTHY J. HOBAN, # 192461  
 14 725 Town & Country Road, Suite 500  
 15 Orange, California 92868  
 16 Phone: (714) 347-1300  
 17 Fasimile: (714) 835-9686  
 18 E-Mail: thoban@tollbrothersinc.com

19 Attorneys for Defendant Toll Bros., Inc.

20 UNITED STATES DISTRICT COURT  
 21 CENTRAL DISTRICT OF CALIFORNIA

22 UNIVERSITY PARK, LLC, a California )  
 23 Limited Liability Company )

24 Plaintiff,

25 v.

26 TOLL BROTHERS, INC., a )  
 27 Pennsylvania Corporation )  
 28 Defendant.

CASE NO. EDCV08- 894 SGL (OPx)

**PROTECTIVE ORDER  
 REGARDING DEFENDANT AND  
 COUNTERCLAIMANT TOLL  
 BROS., INC.'S CONFIDENTIAL  
 INFORMATION AND  
 DOCUMENTS**

**[DOES NOT RELATE TO A  
 DISCOVERY DISPUTE]**

29 TOLL BROS. INC., a Pennsylvania )  
 30 Corporation )  
 31 Cross-complainant,

32 v.

33 UNIVERSITY PARK, LLC, a California )  
 34 Limited Liability Company; )  
 35 UNIVERSITY PARK INVESTORS, )  
 36 LLC, a California Limited Liability )  
 37 Company; SOILS SOUTHWEST, INC., a )  
 38 California Corporation; JAMES R. )  
 39 EVANS, an individual; JAMES R. )

1 WATSON, an individual; WATSON & )  
2 ASSOCIATES DEVELOPMENT )  
3 COMPANY, a business entity form )  
4 unknown; TRANSTECH ENGINEERS, )  
5 INC., a California corporation; and ROES )  
6 1-50 )  
7 Cross-defendants. )

---

8 Pursuant to the joint stipulation of the parties filed concurrently herewith and  
9 for good cause shown, the Court hereby orders as follows:

10 1. Toll may designate as “CONFIDENTIAL INFORMATION” (by  
11 stamping thereon “Confidential”) its highly confidential financial information and  
12 its highly confidential business information (sometimes hereinafter collectively  
13 referred to as (“Confidential Information” or “CONFIDENTIAL  
14 INFORMATION”) that it produces in this litigation, whether voluntarily, in  
15 response to any parties’ requests for production to it or in response to a subpoena  
16 duces tecum including any of the following documents: (A) Toll’s project profit  
17 summaries which contain detailed information reflecting Toll’s cost to prepare lots  
18 for the homes it builds, the costs it incurs to build various models of homes, its  
19 anticipated sales price for its homes, its anticipated profit resulting from the sale of  
20 those homes, and its return on investment; (B) Toll’s spreadsheets reflecting  
21 optional features offered by Toll for various models of homes it sells and the  
22 amount it marks up the price for those options; (C) Toll’s spreadsheets reflecting  
23 the amounts that subcontractors bid to complete work for Toll in connection with  
24 its construction of homes, including bid amounts for flooring, roofing and  
25 plumbing subcontractors; (D) Toll’s specifications for homes it builds, including  
26 specifications relating to the foundations for its homes, wall sheathing, roof  
27 sheathing, insulations and floor joists; (E) Toll’s detailed budgets reflecting the  
28 amount Toll expects to pay to construct the homes that it builds, including amounts  
budgeted for grading, excavation, roofing material, roofing installation and various

1 other materials and labor necessary to construct its homes; and (F) Toll's detailed  
2 billing worksheets reflecting the amounts billed it for the materials provided to it  
3 and services performed for it.

4           2.       Unless and until this Court rules otherwise or Toll otherwise  
5 agrees, access to or disclosure of such CONFIDENTIAL INFORMATION shall be  
6 limited to:

7                   a.       The Court and those employed by the Court, in which  
8 event such information shall be filed under seal pursuant to the procedures set forth  
9 in Local Rule 79-5.1, et seq. (and kept under seal until further order of the Court);

10                   b.       The attorneys of Friedman Stroffe & Gerard, P.C.,  
11 Murphy, Pearson, Bradley & Feeney, Morris Polich & Purdy LLP, Law Office of  
12 Hugo W. Anderson, Jr., APC, any attorneys appointed by insurance companies to  
13 defend existing parties to this action and the employees and office support staff of  
14 such attorneys;

15                   c.       The parties to this action and the officers, directors and  
16 employees of such parties.

17                   d.       Independent experts or consultants for any of the parties  
18 to this action or under serious consideration for such employment (together with  
19 their stenographic and clerical personnel) whose advice and consultation are being  
20 or will be used by the above-described parties in connection with this litigation  
21 provided that such consultant first signs an undertaking to be bound by the  
22 provisions of this protective order in the form attached hereto as Exhibit A.

23                   e.       Court reporters employed in connection with this  
24 litigation; and

25                   f.       Deponents and their attorneys, during the course of a  
26 deposition, provided that the deponent is an employee or agent of Toll, or that the  
27 deponent is an author, direct recipient or copy recipient of such material or that the  
28

1 deponent already knows the particular CONFIDENTIAL INFORMATION  
2 including independent experts and consultants who have received the  
3 CONFIDENTIAL INFORMATION pursuant to subdivision (d) above. The  
4 portions of depositions at which CONFIDENTIAL INFORMATION is disclosed  
5 or discussed shall be transcribed separately and sealed.

6  
7 3. If counsel for any party receiving CONFIDENTIAL  
8 INFORMATION desires to disclose CONFIDENTIAL INFORMATION to  
9 anyone other than the persons listed above said counsel shall first obtain from each  
10 such person a signed undertaking to be bound by this stipulated protective order, in  
11 the form attached hereto as Exhibit A, and shall serve a copy of the signed  
12 undertaking on Toll's counsel at least seven (7) days before making any such  
13 disclosure. If Toll's counsel serves a written objection to such disclosure within  
14 said seven-day period, there shall be no disclosure to such person except by further  
15 order of the Court pursuant to resolution of a motion brought by Toll. If Toll's  
16 counsel serves a written objection to such disclosure within said seven-day period,  
17 the written objection shall include a detailed explanation of the basis for Toll's  
18 objection. In the event that Toll wishes to file a motion to prevent the disclosure of  
19 its CONFIDENTIAL INFORMATION, the parties shall promptly meet and confer  
20 with each other prior to the filing of such a motion in an effort to avoid the need  
21 for such a motion, and, in the event that they are unable to resolve their  
22 differences, Toll shall file the motion to prevent the disclosure of its  
23 CONFIDENTIAL INFORMATION within five days of the parties completing the  
24 "meet and confer" session on the motion.

25  
26 4. The acceptance by any party of the materials designated  
27 CONFIDENTIAL INFORMATION pursuant to this stipulation and order shall not  
28 constitute an admission or concession that, or permit an inference that, the  
CONFIDENTIAL INFORMATION is, in fact, confidential. This Protective Order

1 shall not foreclose the party receiving CONFIDENTIAL INFORMATION from  
2 moving for an Order that any documents stamped CONFIDENTIAL are not, in  
3 fact, confidential.

4           5.     CONFIDENTIAL INFORMATION produced hereunder may  
5 be used by the party receiving it or any other permitted recipient only for purposes  
6 of this litigation. The restrictions on use of CONFIDENTIAL INFORMATION  
7 set forth in this Protective Order shall survive the conclusion of this litigation and,  
8 after conclusion of this litigation, the Court shall retain jurisdiction for the purpose  
9 of enforcing this Protective Order.

10           6.     After final termination of this action, counsel for  
11 Counterdefendants shall return all copies of CONFIDENTIAL INFORMATION  
12 provided hereunder to counsel for Toll or shall destroy such CONFIDENTIAL  
13 INFORMATION and certify the destruction to counsel for Toll.

14           7.     The restrictions and obligations set forth herein relating to  
15 CONFIDENTIAL INFORMATION shall not apply to any information which the  
16 parties agree, or the Court rules, (a) was or becomes public knowledge other than  
17 as a result of disclosure by Counterdefendants or (b) has come or shall come into  
18 Counterdefendants' legitimate possession independently, but not wrongfully. Such  
19 restrictions and obligations shall not be deemed to prohibit discussions with any  
20 person of any CONFIDENTIAL INFORMATION if the parties agree or the Court  
21 rules that said person already had or obtained possession thereof legitimately.

22           8.     Nothing contained herein shall be interpreted to modify or amend the  
23  
24  
25  
26  
27  
28

1 obligations of the parties set forth in the confidentiality agreement contained within  
2 the Joint Report filed November 24, 2008 except to the extent its terms are  
3 expressly contradictory or inconsistent with this Order.  
4

5  
6  
7 Dated: July 07, 2009

A handwritten signature in black ink, appearing to read "S. G. Garson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

8 United States District Judge  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 EXHIBIT A

2 I, \_\_\_\_\_ declare:

3 1. My address is \_\_\_\_\_. My  
4 present occupation is \_\_\_\_\_.

5 2. I have received a copy of the stipulated protective order in *University*  
6 *Park, LLC v. Toll Brothers, Inc. [and related counter-action]*, United States  
7 District Court Case No. EDCV08- 894 SGL (OPx). I have carefully read and  
8 understand the provisions of that stipulated protective order.

9 3. I will comply with all of the provisions of the stipulated protective  
10 order. I will hold in confidence, will not disclose to anyone other than those  
11 persons specifically authorized by the stipulated protective order, and will not copy  
12 or use except for purposes of the above-described lawsuit, any information  
13 designated CONFIDENTIAL INFORMATION which I receive in this lawsuit,  
14 except to the extent that such CONFIDENTIAL INFORMATION is or becomes  
15 public information in accordance with the stipulated protective order.

16 4. At the conclusion of the above-described lawsuit, I will return to  
17 counsel for the party producing the CONFIDENTIAL INFORMATION all  
18 CONFIDENTIAL INFORMATION which I received in this lawsuit.

19 I declare under penalty of perjury under the laws of the United States of  
20 America that the foregoing is true and correct and that this document is executed  
21 this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, at \_\_\_\_\_.

22 \_\_\_\_\_  
23  
24  
25 (SIGN AND PRINT NAME)  
26  
27  
28