

In the Matter of Brookfield Financial Properties, LP,

Respondent.

SUBSTANTIAL BASIS INVESTIGATION REPORT
AND SETTLEMENT AGREEMENT
Case No. 16-082

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 Brookfield Financial Properties, L.P. (“Respondent”);

WHEREAS, Respondent was registered as Brookfield Financial Properties, LLC, a client of lobbying firms for the period of time during the 2015-2016 biennial lobbying registration period and is therefore subject to the jurisdiction of the Commission and the proscriptions set forth in the Lobbying Act;

WHEREAS, in 2015, Respondent had a real estate development project underway, called Manhattan West, located in the Hudson Yards in the Borough of Manhattan which was subject to review by and required approval 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, by Ross Offinger and other people, 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 or client of a 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 give to the Public Official;

WHEREAS, on May 18, 2016, the Commission sent a letter to Respondent which afforded it a period of 15-days in which to respond to allegations that it violated § 1-m of the Lobbying Act and Respondent submitted its response addressing the legal and factual issues involved;

WHEREAS, Respondent voluntarily produced information and documents to the Commission and cooperated fully with the Commission’s inquiry;

WHEREAS, the Commission voted to commence a substantial basis investigation in this matter on April 24, 2018;

WHEREAS, the Commission served Respondent with a Notice of Substantial Basis Investigation and Hearing on April 5, 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 had retained lobbyists to lobby officials of the City of the New York.
2. In April 2015, the Mayor engaged in an effort to raise funds for CONY. On May 22, 2015, Respondent made a \$50,000 donation to CONY. Evidence indicates that the donation was made subsequent to a recommendation made by or on behalf of the Mayor to an executive associated with Respondent. This executive, who had actual knowledge of the events, predeceased the commencement of the Commission's investigation.
3. Respondent acknowledges that § 1-m of the Lobbying Act prohibits any 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 \$30,000 in settlement of this matter against Respondent 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 Respondent. To the extent that representations made by Respondent are later found by the Commission to be materially incomplete or inaccurate, Respondent shall be in breach of this Agreement.
6. If Respondent fails to timely perform any conditions set forth in the Agreement, Respondent shall be in breach of this Agreement.
7. Respondent 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 Agreement or creating the impression that this Agreement is without factual basis. Nothing in this paragraph affects Respondent: (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 Respondent.

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 Basis Investigation and Hearing which may include additional charges against Respondent and proceed with an enforcement action, and then issue a new Substantial Basis Investigation Report; or to deem the Respondent 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 Basis Investigation and Hearing or enforcement action by the Commission pursuant to this paragraph: (1) Respondent waives any claim that such action is time-barred by a statute of limitations or any other time-related defenses; and (2) Respondent expressly acknowledges and agrees that the Commission may use any statements herein, or any other statements, documents or materials produced or provided by Respondent 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 Respondent or by counsel on behalf of Respondent, in any proceeding against Respondent relating to the allegations herein.
9. Respondent shall upon written request by the Commission, provide all documentation and information reasonably necessary for the Commission to verify compliance with this Agreement.
10. Respondent understands and acknowledges that the Commission may investigate any other conduct, not covered by this Agreement, by Respondent and take any appropriate action.
11. Respondent waives 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. Respondent consents 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 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, Respondent acknowledges 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 are deemed originals for the purposes of 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 counsel John Carroll of Skadden, Arps, Slate, Meagher & Flom, LLP, and Mark Glaser of Greenberg Traurig, LLP.

Dated: 8/7/19



New York State Joint Commission on Public Ethics
Monica Stamm, General Counsel

ACCEPTED AND AGREED TO
THIS 7th DAY OF August, 2019

Brookfield Financial Properties, L.P.,
By: Brookfield Financial Properties LLC,
Its managing general partner

By: 

Name: Danielle Brody
Title: Senior Vice President

Approved: Michael K. Rozen, Chair

Colleen C. DiPirro
William P. Fisher
Julie A. Garcia
Daniel J. Horwitz
Gary J. Lavine
James W. McCarthy
George H. Weissman
James A. Yates

Members

Robert Cohen
James E. Dering
Marvin E. Jacob
David J. McNamara

Absent