TOLL BROTHERS INC
Form 10-K
December 21, 2009

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Form 10-K

þ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended October 31, 2009

or

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT of 1934**
For the transition period from to

Commission file number 1-9186

TOLL BROTHERS, INC.

(Exact name of Registrant as specified in its charter)

Delaware	**23-2416878**
(State or other jurisdiction of incorporation or organization)	*I.R.S. Employer Identification No.)*

250 Gibraltar Road, Horsham, Pennsylvania	**19044**
(Address of principal executive offices)	*(Zip Code)*

Registrant s telephone number, including area code
(215) 938-8000

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock (par value $.01)*	**New York Stock Exchange**
Guarantee of Toll Brothers Finance Corp. 6.875% Senior Notes due 2012	**New York Stock Exchange**
Guarantee of Toll Brothers Finance Corp. 5.95% Senior Notes due 2013	**New York Stock Exchange**
Guarantee of Toll Brothers Finance Corp. 4.95% Senior Notes due 2014	**New York Stock Exchange**
Guarantee of Toll Brothers Finance Corp. 5.15% Senior Notes due 2015	**New York Stock Exchange**
Guarantee of Toll Brothers Finance Corp. 8.910% Senior Notes due 2017	

	New York Stock Exchange
Guarantee of Toll Brothers Finance Corp. 6.750% Senior Notes due 2019	**New York Stock Exchange**

*** Includes associated Right to Purchase Series A Junior Participating Preferred Stock and Right to Purchase Series B Junior Participating Preferred Stock.**

Securities registered pursuant to Section 12(g) of the Act:
None

Indicate by check mark if the Registrant is a well known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes þ No o

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Act. Yes o No þ

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes þ No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of Registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. þ

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer þ	**Accelerated filer o**	**Non-accelerated filer o** **(Do not check if a smaller reporting company)**	**Smaller reporting company o**

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No þ

As of April 30, 2009, the aggregate market value of the Common Stock held by non-affiliates (all persons other than executive officers and directors of Registrant) of the Registrant was approximately $2,807,990,000.

As of December 9, 2009, there were approximately 165,107,000 shares of Common Stock outstanding.

Documents Incorporated by Reference:

Portions of the proxy statement of Toll Brothers, Inc. with respect to the 2010 Annual Meeting of Stockholders, scheduled to be held on March 17, 2010, are incorporated by reference into Part III of this report.

PART I

ITEM 1. *BUSINESS*

General

Toll Brothers, Inc., a Delaware corporation formed in May 1986, began doing business through predecessor entities in 1967. When this report uses the words we, us, and our, it refers to Toll Brothers, Inc. and its subsidiaries, unless the context otherwise requires.

We design, build, market and arrange financing for single-family detached and attached homes in luxury residential communities. We are also involved, directly and through joint ventures, in projects where we are building, or converting existing rental apartment buildings into, high-, mid- and low-rise luxury homes. We cater to move-up, empty-nester, active-adult, age-qualified and second-home buyers in 21 states of the United States. In the five years ended October 31, 2009, we delivered 32,189 homes from 604 communities, including 2,965 homes from 318 communities in fiscal 2009. Included in the five-year deliveries are 424 units that were delivered in four communities where we used the percentage of completion accounting method to recognize revenues and cost of revenues.

Our traditional, single-family communities are generally located on land we have either acquired and developed or acquired fully approved and, in some cases, improved. We also operate through a number of joint ventures. Currently, we operate in the major suburban and urban residential areas of:

- the Philadelphia, Pennsylvania metropolitan area
- the Lehigh Valley area of Pennsylvania
- central and northern New Jersey
- the Virginia and Maryland suburbs of Washington, D.C.
- the Baltimore, Maryland metropolitan area
- the Eastern Shore of Maryland and Delaware
- the Richmond, Virginia metropolitan area
- the Boston, Massachusetts metropolitan area
- Fairfield, Hartford and New Haven Counties, Connecticut
- Westchester, Dutchess, Ulster and Saratoga Counties, New York
- the boroughs of Manhattan, Brooklyn and Queens in New York City
- the Los Angeles, California metropolitan area
- the San Francisco Bay, Sacramento and San Jose areas of northern California

the Palm Springs, California area

the Phoenix, Arizona metropolitan area

the Raleigh and Charlotte, North Carolina metropolitan areas

the Dallas, Austin, San Antonio and Houston, Texas metropolitan areas

the southeast and southwest coasts and the Jacksonville and Orlando areas of Florida

the Atlanta, Georgia metropolitan area

the Las Vegas and Reno, Nevada metropolitan areas

the Detroit, Michigan metropolitan area

the Chicago, Illinois metropolitan area

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the Denver, Colorado metropolitan area

the Hilton Head area of South Carolina

the Minneapolis/St. Paul, Minnesota metropolitan area, and

the Martinsburg, West Virginia area.

We continue to explore additional geographic areas and markets for expansion, as appropriate.

We operate our own land development, architectural, engineering, mortgage, title, landscaping, lumber distribution, house component assembly, and manufacturing operations. We also develop, own and operate golf courses and country clubs associated with several of our master planned communities.

Since the fourth quarter of fiscal 2005, we have experienced a slowdown in our business. The value of net contracts signed in fiscal 2009 was 81.8% lower than the value of net contracts signed in fiscal 2005. This slowdown, which we believe started with a decline in consumer confidence, an overall softening of demand for new homes and an oversupply of homes available for sale, has been exacerbated by, among other things, a decline in the overall economy, increasing unemployment, fear of job loss, a significant decline in home prices, a large number of homes that are or will be available for sale due to foreclosure, the inability of our home buyers to sell their current homes, a deterioration in the credit markets, and the direct and indirect impact of the turmoil in the mortgage loan market. We began to see some improvement in our business in late March 2009, and the market appeared to be gaining momentum through early September 2009, which we believe was due to improvement in consumer confidence over the prior year, the increasing stabilization of home prices, a decline in unsold home inventories and a reduction in buyer cancellation rates. Since September 2009, however, demand has been choppy. We believe that the key to a full recovery in our business is reliant upon a more significant return of consumer confidence and a sustained stabilization of financial markets and home prices.

For information and analyses of recent trends in our operations and financial condition, see Management s Discussion and Analysis of Financial Condition and Results of Operations in Item 7 of this annual report on Form 10-K (Form 10-K), and for financial information about our results of operations, assets, liabilities, stockholders equity and cash flows, see the accompanying consolidated financial statements and notes thereto in Item 8 of this Form 10-K.

At October 31, 2009, we had 251 communities containing approximately 17,831 home sites that we owned or controlled through options. Of our 251 communities, 200 were offering homes for sale, 32 had been offering homes for sale but were temporarily closed due to business conditions and 19 were sold out but not all homes had been completed and delivered. Of the 17,831 home sites, 16,300 were available for sale and 1,531 were under agreement of sale but not yet delivered (backlog). At October 31, 2009, we also owned or controlled through options approximately 14,086 home sites in 119 proposed communities. We expect to be selling from approximately 200 communities by October 31, 2010. Of the approximately 31,917 total home sites that we owned or controlled through options at October 31, 2009, we owned approximately 26,872.

At October 31, 2009, we were offering single-family detached homes in 138 communities at prices, excluding customized options, lot premiums and sales incentives, generally ranging from $235,000 to $1,911,000. During fiscal 2009, we delivered 1,659 single-family detached homes at an average base price of approximately $626,300. On average, our single-family detached home buyers added approximately 26.0%, or $163,000 per home, in customized options and lot premiums to the base price of single-family detached homes we delivered in fiscal 2009. At October 31, 2009, we were offering sales incentives that averaged approximately 10.9% of the sales price of our single-family detached homes.

At October 31, 2009, we were offering attached homes in 62 communities at prices, excluding customized options, lot premiums and sales incentives, generally ranging from $180,000 to $840,000, with some units offered at prices higher than $840,000. During fiscal 2009, we delivered 1,306 attached homes at an average base price of approximately $508,700. On average, our attached home buyers added approximately 8.8%, or $44,600 per home, in customized options and lot premiums to the base price of attached homes we delivered in fiscal 2009. At October 31, 2009, we were offering sales incentives that averaged approximately 11.8% of the sales price of our attached homes.

We had a backlog of $874.8 million (1,531 homes) at October 31, 2009 and $1.33 billion (2,046 homes) at October 31, 2008. Of the homes in backlog at October 31, 2009, approximately 94% are scheduled to be delivered by October 31, 2010.

In recognition of our achievements, we have received numerous awards from national, state and local home builder publications and associations, including all three of the industry s highest honors: America s Best Builder (1996), the National Housing Quality Award (1995), and Builder of the Year (1988).

We attempt to reduce certain risks by controlling land for future development through options whenever we can, thus allowing the necessary governmental approvals to be obtained before acquiring title to the land; generally commencing construction of a home only after executing an agreement of sale with a buyer; and using subcontractors to perform home construction and land development work on a fixed-price basis. In order to obtain better terms or prices, or due to competitive pressures, we may purchase properties outright, or acquire an underlying mortgage, prior to obtaining all of the governmental approvals necessary to commence development. Our risk reduction strategy of generally not commencing the construction of a home until we had an agreement of sale with a buyer was effective in the past, but, due to the significant number of cancellations of agreements of sale that we have had during the current downturn in the housing market, many of which were for homes on which we had commenced construction, and the increase in the number of multi-family communities that we have under construction, the number of homes under construction for which we do not have an agreement of sale has increased from our historical levels.

Our Communities

Our communities are generally located in affluent suburban areas near major highways providing access to major cities. We are also operating in the affluent urban markets of Hoboken and Jersey City, New Jersey, New York City, New York and Philadelphia, Pennsylvania. The following table lists the 21 states in which we operate and the fiscal years in which we or our predecessors commenced operations:

State	Fiscal Year of Entry
Pennsylvania	1967
New Jersey	1982
Delaware	1987
Massachusetts	1988
Maryland	1988
Virginia	1992
Connecticut	1992
New York	1993
California	1994
North Carolina	1994
Texas	1995
Florida	1995
Arizona	1995
Nevada	1998
Illinois	1998
Michigan	1999
Colorado	2001
South Carolina	2002

Minnesota	2005
West Virginia	2006
Georgia	2007

We market our high-quality single-family homes to upscale luxury home buyers, generally comprised of those persons who have previously owned a principal residence and who are seeking to buy a larger home the so-called move-up market. We believe our reputation as a developer of homes for this market enhances our competitive position with respect to the sale of our smaller, more moderately priced, detached homes, as well as our attached homes.

We also market to the 50+ year-old empty-nester market which we believe has strong growth potential. We have developed a number of home designs with features such as one-story living and first-floor master bedroom suites, as well as communities with recreational amenities such as golf courses, marinas, pool complexes, country clubs and recreation centers, that we believe appeal to this category of home buyer. We have integrated certain of these designs and features in some of our other home types and communities.

We develop active-adult, age-qualified communities for households in which at least one member is 55 years of age. As of October 31, 2009, we were selling from 14 such communities and expect to open additional age-qualified communities during the next few years. In fiscal 2009, approximately 10% and 13% of the value and number of net contracts signed, respectively, were in active-adult communities.

We also have been selling homes in the second-home market for several years and currently offer them in Arizona, California, Delaware, Florida, Maryland, Nevada, Pennsylvania and South Carolina.

In order to serve a growing market of affluent move-up families, empty-nesters and young professionals seeking to live in or close to major cities, we have developed and are developing a number of high-density, high-, mid- and low-rise urban luxury communities and are in the process of converting several for-rent apartment buildings to condominiums. These communities, which we are currently developing on our own or through joint ventures, are located in Dublin and San Jose, California; Singer Island, Florida; Bloomingdale, Illinois; North Bethesda, Maryland; Hoboken, Jersey City and Plainsboro, New Jersey; the boroughs of Manhattan, Queens and Brooklyn, New York; Philadelphia, Pennsylvania and its suburbs; and Leesburg, Virginia.

We believe that the demographics of the move-up, empty-nester, active-adult, age-qualified and second-home up-scale markets will provide us with the potential for growth in the coming decade. According to the U.S. Census Bureau, the number of households earning $100,000 or more (in constant 2008 dollars), at March 2009, stood at 24.0 million households, or approximately 20.5% of all U.S. households. This group has grown at four times the rate of increase of all U.S. households since 1980. According to a 2009 Harvard University study, the number of projected new household formations during the 10 year period between 2010 and 2020 will be between 10.5 million and 14.8 million.

Although the leading edge of the baby boom generation is now in its early 60s, the largest group of baby boomers, the more than four million born annually between 1954 and 1964, is now in its peak move-up home buying years. The number of households with persons 55 to 64 years old, the focus of our age-qualified communities, is projected to increase significantly over the next 10 years.

We develop individual stand-alone communities as well as multi-product, master planned communities. We currently have 24 master planned communities. Our master planned communities, many of which include golf courses and other country club-type amenities, enable us to offer multiple home types and sizes to a broad range of move-up, empty-nester, active-adult and second-home buyers. We seek to realize efficiencies from shared common costs, such as land development and infrastructure, over the several communities within the master planned community. We currently have master planned communities in Arizona, California, Florida, Illinois, Maryland, Michigan, Nevada, North Carolina, Pennsylvania, South Carolina, Virginia and West Virginia.

Each of our single-family detached-home communities offers several home plans, with the opportunity for home buyers to select various exterior styles. We design each community to fit existing land characteristics. We strive to achieve diversity among architectural styles within a community by: offering a variety of house models and several exterior design options for each model, preserving existing trees and foliage whenever practicable, and curving street layouts which allow relatively few homes to be seen from any vantage point. Normally, homes of the same type or color may not be built next to each other. Our communities have attractive entrances with distinctive signage and landscaping. We believe that our added attention to community detail avoids a development appearance and gives each community a diversified neighborhood appearance that enhances home values.

Our traditional attached home communities generally offer one- to four-story homes, provide for limited exterior options and often include commonly owned recreational facilities such as playing fields, swimming pools and tennis courts.

Our Homes

In most of our single-family detached home communities, we offer at least four different house floor plans, each with several substantially different architectural styles. In addition, the exterior of each basic floor plan may be varied further by the use of stone, stucco, brick or siding. Our traditional attached home communities generally offer several different floor plans with two, three or four bedrooms.

We offer some of the same basic home designs in similar communities. However, we are continuously developing new designs to replace or augment existing ones to ensure that our homes reflect current consumer tastes. We use our own architectural staff, and also engage unaffiliated architectural firms, to develop new designs. During the past year, we introduced 14 new single-family detached models, 16 new single-family attached models and 2 new condominium models.

In all of our communities, a wide selection of options is available to home buyers for additional charges. The number and complexity of options typically increase with the size and base selling price of our homes. Major options include additional garages, guest suites and other additional rooms, finished lofts and extra fireplaces. On average, options purchased by our detached home buyers, including lot premiums, added approximately 26.0%, or $163,000 per home, to the base price of homes delivered in fiscal 2009, and options purchased by our attached home buyers, including lot premiums, added approximately 8.8%, or $44,600 per home, to the base price of homes delivered in fiscal 2009.

The general range of base sales prices for our different lines of homes at October 31, 2009, was as follows:

Detached homes			
Move-up	$ 235,000	to	$ 1,037,000
Executive	265,000	to	977,000
Estate	340,000	to	1,911,000
Active-adult, age-qualified	286,000	to	596,000
Attached homes			
Flats	$ 229,000	to	$ 700,000
Townhomes/Carriage homes	180,000	to	840,000
Active-adult, age-qualified	257,000	to	497,000
Mid-rise	200,000	to	603,000

In addition, at October 31, 2009, we had several mid-rise/high-rise projects that included units being offered for sale at prices that were considerably higher than $603,000.

Contracts for the sale of homes are at fixed prices. In the past, the prices at which homes were offered in a community generally increased during the period in which that community was offering homes for sale; however, the current weak market has adversely affected that pattern. In fiscal 2009, the average sales incentive on homes delivered was approximately $93,200, as compared to approximately $70,200 in fiscal 2008, and $34,100 in fiscal 2007. At October 31, 2009, we were offering sales incentives that averaged $70,300 per home, as compared to $61,000 at October 31, 2008, and $46,400 at October 31, 2007.

The following table summarizes certain information with respect to our residential communities under development at October 31, 2009:

Geographic Segment	Total Number of Communities	Number of Selling Communities	Homes Approved	Homes Closed	Homes Under Contract but not Closed	Home Sites Available
North	68	51	9,677	4,870	550	4,257
Mid-Atlantic	72	56	11,820	5,704	493	5,623
South	52	43	6,626	2,372	282	3,972
West	59	50	5,893	3,239	206	2,448
Total	251	200	34,016	16,185	1,531	16,300

At October 31, 2009, significant site improvements had not yet commenced on approximately 6,600 of the 16,300 available home sites. Of the 16,300 available home sites, 1,136 were not yet owned by us, but were controlled through options.

Of our 251 communities under development at October 31, 2009, 200 were offering homes for sale, 32 that had previously been offering homes for sale were temporarily closed due to business conditions and 19 were sold out but not all homes had been completed and delivered. Of the 200 communities in which homes were being offered for sale at October 31, 2009, 138 were single-family detached home communities and 62 were attached home communities. At October 31, 2009, we had 920 homes (exclusive of model homes) under construction or completed but not under contract, of which 190 were in detached home communities and 730 were in attached home communities. In addition, we had 295 units that were temporarily being held as rental units. Of the 730 homes under construction or completed but not under contract in attached home communities at October 31, 2009, 376 were in high- and mid-rise projects and 22 were in two communities that we acquired and are converting to condominium units.

At the end of each fiscal quarter, we review the profitability of each of our operating communities. For those communities operating below certain profitability thresholds, we estimate the expected future cash flow for each of those communities. For each community whose estimated cash flow is not sufficient to recover its carrying value, we estimate the fair value of the community in accordance with U.S. generally accepted accounting principles (GAAP) and recognize an impairment charge for the difference between the estimated fair value of the community and its carrying value. In fiscal 2009, 2008 and 2007, we recognized impairment charges related to operating communities of $267.4 million, $399.1 million and $177.5 million, respectively.

For more information regarding revenues, gross contracts signed, contract cancellations, net contracts signed, sales incentives provided on units delivered, and (loss) income before income taxes by geographic segment, see Management s Discussion and Analysis of Financial Condition and Results of Operation Geographic Segments in Item 7 of this Form 10-K.

Land Policy

Before entering into an agreement to purchase a land parcel, we complete extensive comparative studies and analyses on detailed internally-designed forms that assist us in evaluating the acquisition. Historically, we have attempted to enter into option agreements to purchase land for future communities. However, in order to obtain better terms or prices, or due to competitive pressures, we acquire property outright from time to time. We have also entered into several joint ventures with other builders or developers to develop land for the use of the joint venture participants or for sale to outside third parties. In addition, we have, at times, acquired the underlying mortgage on a property and subsequently obtained title to that property.

We generally enter into agreements to purchase land, referred to in this Form 10-K as land purchase contracts, purchase agreements, options or option agreements, on a non-recourse basis, thereby limiting our financial exposure to the amounts expended in obtaining any necessary governmental approvals, the costs incurred in the planning and design of the community and, in some cases, some or all of our deposit. The use of options or purchase agreements may increase the price of land that we eventually acquire, but reduces our risk by allowing us to obtain the necessary development approvals before acquiring the land or allowing us to delay the acquisition to a later date. Historically, as approvals were obtained, the value of the options, purchase agreements and land generally increased. However, in any given time period, this may not happen. We have the ability to extend many of these options for varying periods of time, in some cases by making an additional payment and, in other cases, without any additional payment. Our purchase agreements are typically subject to numerous conditions including, but not limited to, the ability to obtain necessary governmental approvals for the proposed community. Our deposit under an agreement may be returned to us if all approvals are not obtained, although pre-development costs may not be recoverable. We generally have the right to cancel any of our agreements to purchase land by forfeiture of some or all of the deposits we have made pursuant to the agreement.

Our ability to continue development activities over the long-term will be dependent, among other things, upon a suitable economic environment and our continued ability to locate and enter into options or agreements to purchase land, obtain governmental approvals for suitable parcels of land, and consummate the acquisition and complete the development of such land.

The following is a summary of home sites that we either owned or controlled through options or purchase agreements at October 31, 2009 for future communities, as distinguished from those communities currently under development**:**

Geographic Segment	**Total Number of Communities**	**Number of Planned Home Sites**
North	29	4,236
Mid-Atlantic	48	5,834
South	15	1,533
West	27	2,483
	119	14,086

Of the 14,086 planned home sites at October 31, 2009, we owned 10,177 and controlled 3,909 through options and purchase agreements. At October 31, 2009, the aggregate purchase price of land parcels subject to option and purchase agreements in operating communities and future communities was approximately $568.5 million (including $138.5 million of land to be acquired from joint ventures in which we have invested). Of the $568.5 million of land purchase commitments, we paid or deposited $78.7 million, we will receive a credit for prior investments in joint ventures of approximately $36.7 million and, if we acquire all of these land parcels, we will be required to pay an additional $453.1 million. Of the additional $453.1 million we would be required to pay, we recorded $119.7 million of this amount in accrued expenses at October 31, 2009. The purchases of these land parcels are scheduled over the next several years. We have additional land parcels under option that have been excluded from the aforementioned aggregate purchase amounts since we do not believe that we will complete the purchase of these land parcels and no additional funds will be required from us to terminate these contracts.

We evaluate all of the land owned or optioned for future communities on an ongoing basis for continued economic and market feasibility. During each of the fiscal years ended October 31, 2009, 2008 and 2007, such feasibility analyses resulted in approximately $198.0 million, $245.9 million and $442.0 million, respectively, of capitalized costs related to land owned or optioned for future communities being charged to cost of revenues because such costs were no longer deemed to be recoverable.

We have a substantial amount of land currently under control for which approvals have been obtained or are being sought (as set forth in the tables above). We devote significant resources to locating suitable land for future development and obtaining the required approvals on land under our control. There can be no assurance that the necessary development approvals will be secured for the land currently under our control or for land which we may acquire control of in the future or that, upon obtaining such development approvals, we will elect to complete the purchases of land under option or complete the development of land that we own. We generally have been successful in obtaining governmental approvals in the past. Based upon our current decreased level of business, we believe that we have an adequate supply of land in our existing communities and proposed communities (assuming that all properties are developed) to maintain our operations at current levels for several years.

Community Development

We expend considerable effort in developing a concept for each community, which includes determining the size, style and price range of the homes, the layout of the streets and individual home sites, and the overall community design. After the necessary governmental subdivision and other approvals have been obtained, which may take several years, we improve the land by: clearing and grading it; installing roads, underground utility lines and recreational amenities; erecting distinctive entrance structures; and staking out individual home sites.

Each community is managed by a project manager. Working with sales staff, construction managers, marketing personnel and, when required, other in-house and outside professionals such as accountants, engineers, architects and legal counsel, a project manager is responsible for supervising and coordinating the various developmental steps such as land approval, land acquisition, marketing, selling, construction and customer service, and the monitoring of the progress of work and controlling expenditures. Major decisions regarding each community are made in consultation with senior members of our management team.

For our single-family detached and attached homes that generally take less than one year to build, we recognize revenue and costs from these home sales only when title and possession of a home is transferred to the buyer, which usually occurs shortly after home construction is substantially completed. For high-rise/mid-rise projects where the construction time is substantially longer than one year and which qualify under Accounting Standards Codification (ASC) 360-20 for percentage of completion accounting, revenues and costs of individual communities are recognized on the individual projects aggregate value of units for which the home buyers have signed binding agreements of sale, less an allowance for cancellations, and is based on the percentage of total estimated construction costs which have been incurred. For high-rise/mid-rise projects that do not qualify for percentage of completion accounting, we recognize revenues and costs when title and possession of a home is transferred to the buyer. During fiscal 2008 and fiscal 2007, we completed construction on four projects for which we used the percentage of completion accounting method to recognize revenues and costs. Subsequent to fiscal 2008, any remaining units in these projects have been or will be accounted for using the completed contract method of accounting. Based upon the current accounting rules and interpretations, we do not believe that any of our current or future communities qualify for percentage of completion accounting.

The most significant variable affecting the timing of our revenue stream, other than housing demand, is the opening of the community for sale, which generally occurs shortly after receipt of final land regulatory approvals. Receipt of approvals permits us to begin the process of obtaining executed sales contracts from home buyers. Although our sales and construction activities vary somewhat by season, which can affect the timing of closings, any such seasonal effect is relatively insignificant compared to the effect of the timing of receipt of final regulatory approvals, the opening of the community and the subsequent timing of closings. In the current economic and housing slowdown, we have delayed the opening of new communities and temporarily shut down a number of operating communities to reduce operating expenses and conserve cash.

We act as a general contractor for most of our projects. Subcontractors perform all home construction and land development work, generally under fixed-price contracts. We purchase most of the materials we use to build our homes and in our land development activities directly from the manufacturers or producers. We generally have multiple sources for the materials we purchase and we have not experienced significant delays due to unavailability of necessary materials. See Manufacturing/Distribution Facilities in Item 2 of this Form 10-K.

Our construction managers and assistant construction managers coordinate subcontracting activities and supervise all aspects of construction work and quality control. One of the ways in which we seek to achieve home buyer satisfaction is by providing our construction managers with incentive compensation arrangements based upon each home buyer s satisfaction, as expressed by their responses on pre-closing and post-closing questionnaires.

We maintain insurance, subject to deductibles and self-insured amounts, to protect us against various risks associated with our activities, including, among others, general liability, all-risk property, workers compensation, automobile and employee fidelity. We accrue for our expected costs associated with the deductibles and self-insured amounts.

Marketing and Sales

We believe that our marketing strategy, which emphasizes our more expensive Estate and Executive lines of homes, has enhanced our reputation as a builder-developer of high-quality upscale housing. We believe this reputation results in greater demand for all of our lines of homes. To enhance this image, we generally include attractive decorative features such as chair rails, crown moldings, dentil moldings, vaulted and coffered ceilings and other aesthetic elements, even in our less expensive homes, based on our belief that this additional construction expense improves our marketing and sales effort.

In determining the prices for our homes, we utilize, in addition to management s extensive experience, an internally-developed value analysis program that compares our homes with homes offered by other builders in each local marketing area. In our application of this program, we assign a positive or negative dollar value to differences between our product features and those of our competitors, such as house and community amenities, location and reputation.

We expend great effort in designing and decorating our model homes, which play an important role in our marketing. In our models, we attempt to create an attractive atmosphere, which may include bread baking in the oven, fires burning in fireplaces, and music playing in the background. Interior decorating varies among the models and is carefully selected to reflect the lifestyles of prospective buyers. During the past several years, we have received numerous awards from various home builder associations for our interior merchandising.

We typically have a sales office in each community that is staffed by our own sales personnel. Sales personnel are generally compensated with both salary and commission. A significant portion of our sales is also derived from the introduction of customers to our communities by local cooperating realtors.

We advertise in newspapers, other local and regional publications, and on billboards. We also use attractive color brochures to market our communities. The internet is also an important resource we use in marketing and providing information to our customers. Visitors to our award-winning web site, www.tollbrothers.com, can obtain detailed information regarding our communities and homes across the country, take panoramic or video tours of our homes and design their own home based upon our available floor plans and options.

Due to the current weak market conditions and in an effort to promote the sales of homes, including the significant number of speculative homes that we had due to sales contract cancellations, we increased the amount of sales incentives offered to home buyers. These incentives will vary by type and amount on a community-by-community and home-by-home basis. The average value of sales incentives given to home buyers on homes delivered in fiscal 2009, 2008 and 2007 was approximately $93,200, $70,200 and $34,100, respectively. At October 31, 2009, we were offering sales incentives, on average, of $70,300 per home.

All of our homes are sold under our limited warranty as to workmanship and mechanical equipment. Many homes also come with a limited ten-year warranty as to structural integrity.

We have a two-step sales process. The first step takes place when a potential home buyer visits one of our communities and decides to purchase one of our homes, at which point the home buyer signs a non-binding deposit agreement and provides a small, refundable deposit. This deposit will reserve, for a short period of time, the home site or unit that the home buyer has selected and locks in the base price of the home. Deposit rates are tracked on a weekly basis to help us monitor the strength or weakness in demand in each of our communities. If demand for homes in a particular community is strong, senior management will determine whether the base selling prices in that community should be increased; whereas if demand for the homes in a particular community is weak, we may determine whether sales incentives and/or discounts on home prices should be adjusted. Because these deposit agreements are non-binding, they are not recorded as signed contracts, nor are they recorded in backlog.

The second step in the sales process occurs when we actually sign a binding agreement of sale with the home buyer and the home buyer gives us a cash down payment which is generally non-refundable. Cash down payments currently average approximately 8.3% of the total purchase price of a home, although, historically, they have averaged approximately 7% of the total purchase price of a home. Between the time that the home buyer signs the non-binding deposit agreement and the binding agreement of sale, he or she is required to complete a financial questionnaire that gives us the ability to evaluate whether the home buyer has the financial resources necessary to purchase the home. If we determine that the home buyer is not financially qualified, we will not enter into an agreement of sale with the home buyer. During fiscal 2009, 2008 and 2007, our customers signed gross contracts for $1.63 billion (2,903 homes), $2.34 billion (3,920 homes) and $4.18 billion (6,024 homes), respectively. During fiscal 2009, fiscal 2008 and fiscal 2007, our home buyers cancelled home purchase contracts with a value of $321.2 million (453 homes), $733.2 million (993 homes) and $1.17 billion (1,584 homes), respectively. Contract cancellations in a fiscal year include all contracts cancelled in that fiscal year, whether signed in that fiscal year or signed in prior fiscal years. When we report net contracts signed, the number and value of contracts signed are reported net of all cancellations occurring during the reporting period, whether signed in that reporting period or in a prior period. Only outstanding agreements of sale that have been signed by both the home buyer and us as of the end of the period for which we are reporting are included in backlog. As a result of cancellations, we retained $21.8 million, $32.5 million and $36.5 million of customer deposits in fiscal 2009, 2008 and 2007, respectively. These retained deposits are included in interest and other income in our statements of operations.

While we try to avoid selling homes to speculators and generally do not build detached homes without first having a signed agreement of sale, we have been impacted by an overall increase in the supply of homes available for sale in many markets as speculators attempted to sell the homes they purchased or cancelled contracts for homes under construction, the large number of homes that are or will be available for sale due to increased foreclosures, and as other builders, who, as part of their business strategy, were building homes in anticipation of capturing additional sales in a demand-driven market, attempted to reduce their inventories by lowering prices and adding incentives. In addition, based on our experience and the high cancellation rates reported by us and by other builders, we believe cancellations by non-speculative buyers have also added to the oversupply of homes in the marketplace. At October 31, 2009, we had 898 unsold units under construction (excluding condominium conversion units), including 376 units in high-density product that generally have a longer construction time than our traditional product. At October 31, 2008, we had 1,295 unsold units (excluding condominium conversion units), including 522 units in high-density product that generally have a longer construction time than our traditional product.

At October 31, 2009, our backlog of homes was $874.8 million (1,531 homes). Of the homes in backlog at October 31, 2009, approximately 94% of the homes are scheduled to be delivered by October 31, 2010.

Our mortgage subsidiary provides mortgage financing for a portion of our home closings. Our mortgage subsidiary determines whether the home buyer qualifies for the mortgage he or she is seeking based upon information provided by the home buyer and other sources. For those home buyers that qualify, our mortgage subsidiary provides the home buyer with a mortgage commitment that specifies the terms and conditions of a proposed mortgage loan based upon then-current market conditions. Prior to the actual closing of the home and funding of the mortgage, the home buyer will lock in an interest rate based upon the terms of the commitment. At the time of rate lock, our mortgage subsidiary agrees to sell the proposed mortgage loan to one of several outside recognized mortgage financing institutions (investors) that it uses, which is willing to honor the terms and conditions, including the interest rate, committed to the home buyer. We believe that these investors have adequate financial resources to honor their commitments to our mortgage subsidiary. At October 31, 2009, our mortgage subsidiary was committed to fund $419.2 million of mortgage loans. Of these commitments, $122.2&#1