CALIFORNIA ASSOCIATION OF REALTORS®

Minutes

www.car.org

September 21 – 24, 2011

Executive Office:
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Sacramento, CA 95814
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CALIFORNIA ASSOCIATION OF REALTORS® EXECUTIVE COMMITTEE
San Jose Marriott Hotel
San Jose Convention Center
San Jose, California

CALL TO ORDER

The meeting was called to order by President Beth L. Peerce at 10:00 a.m. on September 21, 2011.

ATTENDANCE

Members Present: President Beth L. Peerce, President-Elect LeFrancis Arnold, Treasurer Don Faught, Melanie Barker, Jeff Barnett, Malcolm Bennett, Kevin Brown, Staci Caplan, Tom Carnahan, Carolyn D'Agosta, Winnie Davis, Steve Goddard, Joel Singer (Ex-Officio), Gary Thomas, Tricia Thomas, John Torres, Randall Traw

Also Present: 2011 Regional Chairs, 2011 Committee Liaisons

Parliamentarian: Tim Hegstrom

Staff Present: Mary Martinez, Rick Shumacher

APPROVAL OF MINUTES

It was Moved, Seconded and CARRIED to approve the minutes of the May 4 - 7, 2011 meeting in Sacramento, California, and of the August 30, 2011 meeting in Los Angeles, California.

REPORT OF THE PRESIDENT

President Peerce reported on several significant issues expected to be discussed in committees during the week, including the Strategic Plan and Budget recommendations, the REALTOR® Action Assessment, the Distressed Properties Task Force recommendations, the Political Activities Task Force recommendations, legislative and public policy issues, and the Department of Real Estate and the status of the DRE Commissioner appointment.

REPORT OF THE PRESIDENT-ELECT

President-Elect LeFrancis Arnold spoke about the committee selection process for 2012, and reported that the Regional Chairs discussed a number of issues. He also reported that the Officers are considering the appointment of a Working Group to discuss the issue of Regional representation for NAR Directors from California.

REPORT OF THE TREASURER

Treasurer Don Faught, Chair of the Strategic Planning and Finance Committee, reported on the state of the Association's finances. He also urged attendance at the SPF Forum.

Strategic Planning and Finance

It was Moved by Don Faught, Seconded and CARRIED that $23,500 be approved for certain expenditures and activities related to the election of a

California candidate to NAR office during the campaign period of three years or more.

Action of Directors: Approved

It was Moved by Don Faught, Seconded and CARRIED that the title of the International Real Estate Forum be changed to Global Real Estate Forum.

Action of Directors: Approved

It was Moved by Don Faught, Seconded and CARRIED that C.A.R. allocate $25,000 each from the Disaster Relief Fund to assist the state REALTOR® Associations in North Carolina, New Jersey, New York and Vermont with hurricane and tropical storm recovery efforts.

Action of Directors: Amended

See consent agenda, Attachment A, for additional Strategic Planning and Finance action items approved by the Directors.

REPORT OF THE EXECUTIVE VICE PRESIDENT/STATE SECRETARY

Executive Vice President and State Secretary Joel Singer reported on the progress of the Association's subsidiaries.

CONSENT AGENDA

It was Moved, Seconded and CARRIED to approve the Consent Agenda as presented.

See Consent Agenda Action Items – Attachment A

SPECIAL REPORTS

Political Activities Task Force
Vince Malta, Chair

It was Moved, Seconded and CARRIED to accept the report of the Political Activities Task Force. It was noted that the Task Force would continue to meet with the objective of evaluating proposed PAC Bylaws changes.

It was reported for information only that the following slate of nominees for a two-year term on the REBS Board of Directors would be presented to the Board of Directors for approval, and for the C.A.R. President to be instructed to elect these individuals on behalf of C.A.R.:

David Cabot, San Diego, Prudential Realty
West DeYoung, South Pasadena, Dilbeck Real Estate
Heidi Rickerd-Rizzo, Napa, Terra Firma Global Partners
Joel Singer, Los Angeles, California Association of REALTORS®
Jeannette Way, Vacaville, Gateway Realty

Note: The following REBS Directors have continuing terms:
Robert Bailey, Aptos, Bailey Properties
James Liptak, Paso Robles, Altera Central Coast
Emily Schwartz, Glendora, Citrus Valley Association of REALTORS®

Rick Snyder, San Diego, R.A. Snyder Properties

COMMITTEE REPORTS

CREPAC
Mike Teer, Chair

It was reported for information only that the following slate of nominees will be presented to the Directors for approval. Trustees serve for a three-year term. Alternates may be selected to fill the remainder of a vacant term during the year.

NOMINEES FOR CREPAC TRUSTEE
(November 2011 - November 2014)
Gene Lentz, Region 9
Barbara J. Palmer, Region 10
Gregory Pawlik, Region 17
Steve White, Region 18
Evelyn Arnold, Region 22

NOMINEES FOR CREPAC ALTERNATE
(November 2011 - November 2012)
Nelson Janes, AE, Region 3
Terriann McGowan, Region 4
Cheryl McFall, Region 7
Debbie Rodgers, Region 11
Don Scordino, Region 12
Thomas Berge, Region 16
Geoffrey Craighead, Region 25
Robert Pahlke, Region 29

It was reported for information only that CREPAC contributed $257,100 to bi-partisan candidates for State Assembly and State Senate, as well as to the Democratic and Republican Parties.

It was further reported for information only that CREPAC recommended to RPAC that contributions of $172,000 be made to bi-partisan candidates for congress.

It was further reported for information only that the CREPAC Trustees support the Political Activities Task Force recommendations, except they strongly oppose the reduction of the RAA from $49 to $39.

It was further reported for information only that the following CREPAC Bylaws amendments be approved.

Summary of Proposed CREPAC Bylaws Changes 9-21-2011

1. Changes the CREPAC Trustee terms from 3-year terms to 2-year terms
2. Defines a “Complete Term” as more than 12 months.
3. Requires any Chair and Vice Chair to have served at least one Complete Term.

4. Removes the life time ban on repeat service but replaces it with a requirement that any trustee be off for 24 consecutive months before being eligible to serve as Trustee again.
5. Requires all Trustees selected to either have served as an alternate or have previously served as a Trustee.
6. Does not allow any voting Trustee to hold any of the following C.A.R. Leadership positions while in office: Chair or Vice Chair of any committee, Executive Committee Member, Strategic Planning and Finance Committee Member, or Liaison to committees.
7. Provides that if no Executive Officer is qualified and able to serve in the Executive Officer Trustee position, that the position may be filled with a qualified REALTOR®.
8. Provides that if no Executive Officer is qualified and able to serve as an alternate for the Executive Officer Trustee position, that the alternate position may be filled with a qualified REALTOR®.
9. Conforms the Nominating Committee to existing practice which is that no person running for trustee shall be on the Nominating Committee or participate in the selection of the Nominating Committee members. Further that if the CREPAC Chair is running for office and therefore ineligible to serve, the immediate past CREPAC Chair, senior Vice Chair, other Vice Chair shall chair the Nominating Committee and if they are not available, the CAR Immediate Past President will select the Nominating Committee Chair from current or prior CREPAC Trustees, or REALTORS®.

It was Moved, Seconded and CARRIED, that C.A.R., in conjunction with NAR, "SUPPORT" the removal of the pest inspection and/or clearance requirement to insure a VA loan.

Federal
Barbara Palmer ,Chair

Action of Directors: Approved

It was reported for information only that the following slate of nominees will be presented to the Directors for approval. Trustees serve for a three-year term. Alternates may be selected to fill the remainder of a vacant term during the year.

IMPAC
Terry Wunderlich, Chair

NOMINEES FOR IMPAC TRUSTEE
(November 2011 - November 2014)
Michael Godfrey, Region 6
Lynn Heintz, Region 12
Carol Banner, Region 15
Carl San Miguel, Region 19
Pat Fredericks, Region 28

NOMINEES FOR IMPAC ALTERNATE
(November 2011 - November 2012)
Anita Thede, Region 6
Lisa Muetterties, Region 7
Kimberly DiBenedetto, Region 10
Robert Kronovet, Region 17
Stephen Hanleigh, Region 19

Larry Black, Region 23
Paula Cosenza, Region 32

It was further reported for information only that the IMPAC Trustees authorized the following contributions:

2/10/2011 - Orange County Association of REALTORS®: $25,000 for Yes on Measure A to support a local planning measure on the March 8, 2011 special election ballot, and approve the request for a total of $5,000 from 3 interboard solicitations.

5/3/2011 - Pacific Legal Foundation: $25,000 to support their litigation program in support of private property rights.

5/3/2011 – Orange County Association of REALTORS®: $20,000 to Yes on Measure B on the June 2011 ballot to uphold the approval of a mixed use development.

5/3/2011 – Orange County Association of REALTORS®: Approval of three interboard solicitations that will amount to $2,000 in contributions toward the Yes on Measure B campaign.

Land Use and Environmental
Greg Haas, Chair

It was Moved by Greg Haas, Chair of the Land Use and Environmental Committee, Seconded and CARRIED, that C.A.R. "SPONSOR" legislation to statutorily define "cost-effective" to require that the total costs of energy efficiency improvements, including maintenance costs, be less than the total present value of the energy saved over the useful life of the improvement.

Action of Directors: Approved

Legal Action Fund
Ted Loring, Chair

It was reported for information only that since May the Trustees reviewed 5 cases and approved filing a brief on one case as follows:

Henley v. Ron McKim Construction. Buyers (Henleys) entered into a contract with the Costas to buy residential property in April 2006. The buyers also signed a Buyer Broker agreement which contained a mediation clause. Escrow closed on May 9, 2006 and in March 2007, the buyers became aware of alleged property defects including paint and efforescence problems in March 2007. The broker's counsel wrote a letter suggesting mediation on April 8, 2008. The buyers, through their counsel, responded May 23, 2008. The complaint was filed on January 20, 2009 against the construction company only. An unsuccessful mediation was held on February 19, 2009. The broker had participated in the mediation but did not sign an agreement tolling the statute of limitations. The buyers filed a first amended complaint naming the broker on May 8, 2009. The broker filed motions for summary judgment based on the statute of limitations. The motion was denied based on the theory that the statute of limitations was extended based on the doctrine of equitable tolling. The amended complaint had been filed more than two years after the plaintiff became aware of the defect but the trial court held that the 2009 mediation (though unsuccessful) stopped the time from running because mediation was required under the contract. The matter is on appeal and the trustees

authorized a brief supporting the broker's position that participating in a mediation does not toll the statute of limitations.

DBSI Bankruptcy. The Trustees are not officially involved in this case but are monitoring it. Many C.A.R. members were sued for past commissions by a bankruptcy trustee under the theory that the bankrupt company knew they had no assets to pay real estate professionals and therefore all such funds should be returned to the Bankruptcy Trustee. Approximately 84 members have joined the group to save costs in a joint defense. On August 3, 2011, the Bankruptcy Trustee filed a Notice of Commencement, signaling that the Trustee is moving forward with the action against the real estate professionals. All of the defendants in the case have until September 19, 2011 to file an answer or otherwise respond in the case. The deadline has been extended for members of the group to October 11, 2011. Rather than file answer to the complaint, various procedural motions either have been filed or will be filed in the next few days. These may include motions seeking dismissal or the transfer of the case on the basis of lack of personal jurisdiction, improper venue, failure to adequately plead the claims, and a motion to transfer to another court. These procedural motions, if successful, will significantly improve the posture of the case for the group.

Membership
Jim Ezell, Chair

See Consent Agenda (Attachment A) for an action item from the Membership Committee.

REALTOR® Action Fund
Judy Zeigler, Chair

It was Moved, Seconded and CARRIED, that C.A.R. and the local associations add both the $148 "True Cost of Doing Business" and the $49 "Minimum Cost of Doing Business" on their dues billing statement, effective immediately.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that to attend the Capitol Reception, REALTOR® members, affiliates and local association management staff (which includes AEs and GADS) must have contributed $148 the True Cost of Doing Business.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that the RAF/RAA political contributions allocation formula be changed as follows for 2012.
$49: Personal/Corporate Contributions
0% to CREPAC/Federal
25% to CREIEC ($12.25)
45% to CREPAC State ($22.05)
30% to LCRC ($14.70)

$148: Personal/Corporate Contributions first $93:
0% to CREPAC/Federal
25% to CREIEC ($23.25)
45% to CREPAC State ($41.85)
30% to LCRC ($27.90)

Above $93 to CREPAC/Federal

Note: The 2011 formula was as follows:*
RAF/RAA Allocation Formula Contribution up to $20: above $20 to CREPAC/Federal

Personal Contributions
0% to CREPAC/Federal
25% to CREIEC ($5.00)
45% to CREPAC State ($9.00)
30% to LCRC ($6.00)

**[NOTE: Corporate Contributions: 20% to CREIEC; 48% to CREPAC State32% to LCRC]*

Action of Directors: Approved

It was reported for information only that the REALTOR® Action Fund Committee recommends that C.A.R. retain the REALTOR® Action Assessment at the current $49.

Standard Forms Advisory
Vicki Carpenter, Chair

It was reported for information only that there were three Regional Representative reports given to the Standard Forms Advisory Committee (SFAC) meeting. The committee received accolades for the creation of the Additional Broker or Agent Acknowledgement (ABAA) form. Additional comments were received, including one to add a disclosure regarding the existence of methamphetamine to the SBSA form as well as appreciation for the creation of a stand-alone Water Heater Statement of Compliance (WHS) form. There were also comments about the need for a carbon monoxide device compliance disclosure. The SFAC reviewed 4 drafts scheduled for release November 2011:
Additional Broker or Agent Acknowledgement (ABAA) form
Extension of Lease (EL) form
Optional Verification of Electronic Signature for Third Parties (OVS) form
Water Heater Statement of Compliance (WHS) form

The SFAC spent some time reviewing the Optional Verification of Electronic Signature for Third Parties (OVS) form. The committee agreed to continue with the release of this form, noting that pending a review/response from the Department of Corporations, there may be a need for a revision in April 2012.
The SFAC reviewed 1 new draft, tentatively scheduled for release in April 2012:
• Septic Inspection, Well Inspection, Property Monument and Allocation of Cost Addendum (SWPI) form

In addition to making some edits to the SWPI form, the SFAC will request feedback from the Land Use Committee prior to releasing the form.

Further, as it relates to the November 2011 release, the committee also reviewed drafts of the 23 revised forms scheduled for release. The SFAC also received updates regarding the following sub-committees/study groups:
• C.A.R. San Francisco Subcommittee – form updates scheduled for

November, 2011
• Property Management Study Group – will continue through 2012
• Probate Study Group – will host their first meeting in January 2012

The committee also received an update regarding the local forms library pilot program. C.A.R. staff has met with three local regions to explore this initiative and are continuing with the project. Finally, the SFAC reviewed 67 of the 97 comments received. The committee will have a conference call in the coming month to review the balance of the comments.

Strategic Planning and Finance
Don Faught, Chair

See Treasurer's report above and Consent Agenda (Attachment A) for additional action items from the Strategic Planning and Finance Committee.

Taxation and Government Finance
Patricia Bouie-Hinds, Chair

It was Moved, Seconded and CARRIED, that C.A.R. "SPONSOR" legislation that would require property tax assessment appeals boards to comply with the Brown Act.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R. "SPONSOR" federal legislation in conjunction with NAR that would extend the debt forgiveness protections beyond the end of next year. Once federal legislation is approved, that C.A.R. "SPONSOR" state legislation that would extend the debt forgiveness protections beyond the end of next year in conformity with federal law.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R. take a "NOT REAL ESTATE RELATED" position on a proposition (Number Pending) on the June 2012 ballot: State Budget. Changes California Budget Process. Limits State Spending. Increases "Rainy Day" Budget Stabilization Fund.

Action of Directors: Approved

It was Moved, Seconded and CARRIED, that C.A.R. "SUPPORT" legislation that would eliminate the State Responsibility Area Fire Prevention Benefit Fee.

Action of Directors: Approved

Transaction and Regulatory
Steve Rosco, Chair

It was Moved, Seconded and CARRIED, that C.A.R. affirm its position in support of the existing conforming loan limits (175 percent of the national conforming loan limit-$729,750) set by the Emergency Economic and Stabilization Act.

It was Moved, Seconded and CARRIED, that C.A.R. "SUPPORT" the State Bar proposal to preserve "purchase money" status for refinanced purchase mortgages balances on a go forward basis.

It was reported for information only that Staff was directed to prepare

background materials on local handbill permit and background requirements modeled after the Yorba Linda ordinance.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:30 a.m. on September 24, 2011.

ATTACHMENT A – CONSENT AGENDA

1. ACTION ITEM **CONSENT AGENDA**

That the following applicants be granted C.A.R. Honorary Member-for-Life status:

Membership

Alameda AOR
Hadi Monsef

Amador County AOR
Sheldon Rodman

Arcadia AOR
Ondina Nunez

Bakersfield AOR
Cleta Bird
Jack Doremus
John Gregg
Harry Hankins
Jacob Stafford

Bay East AOR
Frank Harmon
Maxine Jennings
Virginia Rauch
Ingrid Wetmore

Beverly Hills/Gtr LA AOR
Herbert Balter
Adelle Carlson
Michael Di Giovanni
Gertrude Fox
Greta Hunt
Maxine Keeling
Stan Nelson
Phyllis Nelson
Matt Pouratian
Ellen Sangermano
Marcia Sherwin
Jerome Zamarin

California Desert AOR
Art Koupas
Gayle Long
Frederick Prescott

Citrus Valley AOR
Albert Castro

Contra Costa AOR
Bill Goodwin
Lee Lyons
Lorraine McPherson
Vera Nugent

Downey AOR
Maria Pierce

El Dorado County AOR
Gina Chappell
Gladys Katsikis
Fresno AOR
Betty Grossman
Wanda Handley
Ethel Pronin

Greater Antelope Valley AOR
Marilyn Johnson

Hemet-San Jacinto BOR
Robert Schmeling

Humboldt AOR
Jack Limmer

Imperial County AOR
Samuel Villanueva

Lodi AOR
Myrna Carter
Lucy Carvalho
Lenore Dougherty
Ellen Foley
Frank Jorgensen
Hazel Kerner
Keith Selleseth

Monterey County AOR
George Coe
Helen Gorman
Emilio Lagasca
Judith Lyle

Monterey County AOR (continued)
Samuel McLeod
Richard Stebbins
Carol Winningham

Newport Beach AOR
Mary Von Geldern

North Bay AOR
Jeraldeen Butler
Jack Fuller
Nancy Hunt
Stephen Jones
Marilyn Mc Coul
Betz Tyler
Ernest Villanueva

North San Diego County AOR
Frances Burns
Pat Haeckel
Edward Wood

Northern Solano County AOR
Dick Dawson
Yvonne Greer

Oakland AOR
Carolyn Gee

Orange County AOR
Herbert Becker
Jean Kulemin
Inga Lehnert
Clark Macgillivray
Keith Snider
Rich Steinhoff
Searl Stock

Pacific Southwest AOR
Edna Mitchell

Pacific West AOR
Gary Myers
Shirley Saltman
Ofelia Warthen

Palos Verdes Peninsula AOR
Ouida Peterson

Pasadena-Foothills AOR
Joyce Dandurand
Shirley Donovan
France Meindl
Pat Pattabhiraman

Placer County AOR
Richard Byerrum
Bob Myer
Joyce Warner
Arlene Winne

Rancho Southeast AOR
Lil Gonzaga
Jeanette Mathis
Jag Mehta

Rim O The World AOR
Gerald Du Four
Pearl Swinson

Sacramento AOR
Richard Armstrong
Nancy Bernheimer
Betsy Berretty
Cleo Brown
Avon Burgess
Joan Carlino
Marguerite Clugston
John Dowdell
Lotus Fabian
David Frost
Betty Glove
Barbara Harsch
Shirley Klarenbach
Ronald LaBella
Roberta Lautrup
Jack Lee
Janice Levin
Georgia Mikacich
Laura Mikulecky
Robert Nielsen
Phyllis Norris
Cathy Phillips
Jessica Railsback
Eva Schwindt
Joann Sertic
Patricia Sheean
Loretta Sherb
Zoe Treaster
Roberta Urban

Sacrmaento AOR (continued)
Carolyn Warren
Frances Young

San Diego AOR
Arthur Kirk
Florencio Reyes
Sylvester Sluka
Richard Sorensen
Carol Sorenson
Danny Yelvington

San Francisco AOR
Richard Fiore

San Luis Obispo AOR
Phil Gray
Garry Holdgrafer

San Mateo County AOR
Donna Black
Bill Davey
Arline Dixon
Paul Lee
Patricia Lucia
Gene Mickelson
Harry Minkey
Robert Paulus
Suzanne Silverstein
Sally Thompson

Santa Clara County AOR
Carla Griffin
Rose Huggins

Santa Cruz County AOR
Steven Page
Joyce Rudy
Jose Santiago
Ursula Ulrich

Scenic Coast AOR
Barbara Snyder

Shasta AOR
David Parr
Van Tilllman

South Bay AOR
Jill Sulser

Southland Regional AOR
Manuel Adame
Samy Antoun
Janis Baer
James Baker
Robert Baldocchi
Beverly Benson
Donald Benson
David Bock
Rosemarie Buehler
Larry Calemine
Joseph Cashen
Gloria Chase
Arnold Cohen
Harriet Cohen
Chester Collom
Gilberto Cortes
Gail Cox
Michael De Angelis
Harvey Dlugatch
Shirley Duenckel
Gloria Duron
Rita Edson
Irv Falk
Ann Fischer
Sonia Fox
Grace Frey
Grace Gaynor
Shelia Goodkin
Hank Harmon
Susan Harned
Thomas Herron
Ruth Hertz
Betty Hopper
Leona Irwin
Sameer Jabboury
Richard Janisch
Eric Kehela
Charles King
Walter Kramer
Haig Krikorian
Freida Law
Marion Light
Marjorie Lipson
Mimi Littman
Adela Lopez
Aurora Manayan
Bartolomeo Manzo
Anita Martin
Sherman Massmann
Frank Mc Andrew

Southland Regional AOR (continued)
James Mc Kenna
Ernest Mekjian
Jerome Mellinger
Janet Morris
George Moss
Constance Nelson
Miles Nesman
Lorraine Ourada
Rudolph Phillips
Patricia Pierce
Aleksandra Piibe
Juvenal Pimentel
Merrilyn Reuss
Karen Robb
David Rolapp
Joan Santagata
Mel Santourian
Roy Silver
Rose Solakian
Sol Taylor
Judith Tedeschi
Sylvia Wachtel
Lee Waller
Gene Wallis
Sandra Walton

Southwest Riverside County AOR
Lee Schapel

Tulare County AOR
Sherry Tietjens
Dale Wiley

Ventura County Coastal AOR
Sally Caulfield
Ann Diestel
Tila Estrada
Joe Gallegos
Shirley Milligan
Joan Minster
Clark Owens
Don Petty

West San Gabriel Valley AOR
Thomas Berge

Yolo County BOR
William Streng

Yosemite Gateway AOR
Marilyn Sikora

2. ACTION ITEM
That the Statement of Income and Expenses by program for the seven months ending July 31, 2011 be approved.

CONSENT AGENDA

Strategic Planning and Finance

Total C.A.R.
Revenue of $22,026,500
Expenses of $13,605,100
An excess of income (including investment income) over expenses of $8,421,400

Political Activities Fund
An excess of income over expenses of $2,128,200

Issues Action Fund
An excess of income over expenses of $1,143,700

REALTOR® Action Assessment
An excess of income over expenses of $7,141,900

The C.A.R. Balance Sheet as of July 31, 2011
Total assets of $72,781,300 (of which $58,257,500 are current assets)
Total liabilities of $6,317,800 (of which $5,808,100 are current liabilities)
C.A.R. Fund Balance of $66,463,500

3. ACTION ITEM
That the Projected Statement of Income and Expenses by program for the year ending December 31, 2011 be approved.

CONSENT AGENDA

Strategic Planning and Finance

Total C.A.R.
Revenue of $25,889,200
Expenses of $25,860,000
An excess of income (including investment income) over expenses of $29,200

Political Activities Fund
An excess of income over expenses of $1,179,600

Issues Action Fund
An excess of income over expenses of $843,100, this amount will be allocated to IMPAC as approved by the Directors.

REALTOR® Action Assessment
An excess of income over expenses of $6,885,000, this amount will be allocated to PACs.