

## **Winter 2010 Summary of Action Items**

CALIFORNIA ASSOCIATION OF REALTORS®  
BOARD OF DIRECTORS  
527th SESSION  
FEBRUARY 5 - 6, 2010

The following is a summary of the significant action items approved by the CALIFORNIA ASSOCIATION OF REALTORS® Board of Directors at its Winter 2010 meeting. Some additional information items are included, but do not necessarily represent Association policy. A complete set of minutes is available for review upon request.

### **CALIFORNIA REALTOR® EXPO**

1. It was reported for information only that the CALIFORNIA REALTOR® EXPO will be held October 5 - 7, 2010 at the Anaheim Convention Center. The theme is "Onward and Upward." The CALIFORNIA REALTOR® SHOWCASE will be held on Thursday, June 10, 2010 in Sacramento.

### **C.A.R. Scholarship Foundation/C.A.R. Education Foundation**

1. It was reported for information only that the C.A.R. Scholarship Foundation granted awards totaling \$6,500. The C.A.R. Education Foundation granted awards totaling \$13,806.

### **CREPAC Trustees**

1. It was reported for information only that the CREPAC Trustees will transfer the 2010 Fair Share contribution of \$760,000 from CREPAC/Federal to the National RPAC. The CREPAC Trustees will recommend to the REALTORS® Political Action Committee (RPAC) Trustees of NAR that \$94,000 be contributed in support of 43 federal candidates in the 2010 June Primary.

### **Executive**

1. That the following 2010 Presidential Appointments be approved: a) Executive Committee, b) Directors at Large:

a) 2010 Executive Committee:

Steve Goddard, South Bay, President

Beth L. Pearce, Southland Regional, President-Elect

Don Faught, Bay East, Treasurer

Joel Singer, Los Angeles, Executive Vice President (Ex-Officio)

Darnella Barnes, Delta

Sharon Bowler, Citrus Valley

Eva Garcia, Sacramento

Ed Herold, Contra Costa

Patricia Hicks, East Valley

Mickey Knickerbocker, South Bay

Jim Liptak, Paso Robles

Vincent Malta, San Francisco

Jared Martin, Fresno

Allen Okamoto, San Francisco  
Mark Peterson, Citrus Valley, RC  
Mary Rovarino, Arcadia, AE  
Judy Zeigler, California Desert

b) 2010 Directors at Large:

Kim Boda, Big Bear  
Tim Brigham, Big Bear  
Virginia Butler, Palos Verdes Peninsula  
Billie Jean Chadwick, Lompoc Valley  
Geoffrey Craighead, San Mateo County  
Jackie Crowley, Palos Verdes Peninsula  
Miguel Garcia, Montebello District  
Janet Halliburton, Oakland  
Hannelore Knapp, Victor Valley  
Larry Knapp, Sacramento  
Andy Lai, Santa Clara County  
Carolyn Mettelmann, Bay East  
Lisa Muetterties, Calaveras County  
Tim Muetterties, Calaveras County  
Heather Raphael, Pacific West  
Shari Setser, Sutter Yuba  
Gary Sharrow, Rim O' The World  
Staci Siddhadas, Santa Barbara  
Scott Swendiman, Shasta County  
Anita Thede, Berkeley

2. To adopt a Resolution of Grateful Appreciation in honor of 2009 President James Liptak.
3. To adopt a Resolution of Grateful Appreciation in honor of Jeannette Way, recipient of the 2009 California Distinguished REALTOR® Award.

### **Housing**

1. That C.A.R., in conjunction with NAR, “OPPOSE” discrimination based on sexual orientation for equal housing opportunity.
2. That C.A.R., in conjunction with NAR, “SUPPORT” the reinstatement of the “spot approval” process for FHA loans.
3. That C.A.R. revise its current position of sponsoring SB 206 (Dutton), REO Homebuyer Tax Credit, to also include sponsoring or supporting the Governor’s proposed tax credit for the purchase of new or existing homes as the purchaser’s principal residence, if a reliable source of funding is identified and a bill to create such a tax credit is introduced.

### **IMPAC Trustees**

1. It was reported for information only that IMPAC authorized the following contributions:  
--Geyer Associates/Resource Landowners Coalition: \$15,000, as requested, to fund technical assistance for developing options for financing the state’s Williamson Act subvention program  
--Beverly Hills/Greater Los Angeles, Pasadena-Foothills, Glendale and South Bay Associations

of REALTORS®: \$41,500, as requested, for a Point-of-Sale analysis and the development of a matrix of alternative solutions, with the condition that the requesting associations submit interboard solicitations to all Southern California local associations within 30 days of this IMPAC approval. Interboard Solicitations were also authorized for all southern California local associations at any amount.

--Big Bear Association of REALTORS®: \$25,000, as requested to the group Citizens Protecting the Rights of Property Owners (CPRPRO) towards previous and current legal fees incurred in a fight to preserve property owner's the rights to both Private Home Rentals (PHRs) and 1031 exchanges associated with vacation rentals in the City of Big Bear Lake. Interboard Solicitations were also authorized for any local association at any amount.

--Oroville Association of REALTORS®: Approve Oroville AOR's Interboard Solicitation request to solicit \$4,000 from the Chico and Paradise AORs to offset the cost of professional advocacy services to defeat a point of sale sewer lateral inspection and repair campaign.

--Civil Justice Association of California: \$20,000 for annual membership, which includes a seat on the CJAC Board of Directors.

--California Building Industry Association: \$25,000, as requested, to fund the Coalition effort to challenge the adoption of the General Permit for Discharges of Storm Water Associated with Construction Activities.

### **Legal Action Fund**

1. It was reported for information only that the Legal Action Fund Trustees considered three cases and approved one amicus brief.

Miller vs. London Properties. The listing broker represented the seller in a business opportunity. A buyer made an offer on the property but had no real estate agent. The listing broker elected to represent the seller exclusively and provided a separate custome writing to that effect, which was signed by the buyer, in addition to the agency disclosures and elections required by law. The writing explicitly stated the broker was not the agent of the buyer in the transaction and was the exclusive agent of the seller. At the seller's request, the listing agent removed a portion of the noncompete clause and the buyer accepted the contract. After the business failed due to a variety of reasons, the buyer sued the broker due to the change in the clause alleging that the broker had an agency duty to the buyer and had breached it. The trial court found there was no agency relationship and therefore no breach of an agency duty. The trustees approved an amicus brief supporting London Properties on the issue of a broker's right to select single agency and to define the relationship between the parties by contract.

### **Legislative**

1. That C.A.R. take the following positions on upcoming ballot propositions:

Proposition 14 – Elections: Open Primaries. Legislative Constitutional Amendment – "NEUTRAL" (June 2010 ballot)

Proposition 16 -- New Two-Thirds Requirement for Public Electricity Providers. Initiative Constitutional Amendment -- "AGAINST" (June 2010 ballot)

Proposition 17 -- "Continuous Coverage Auto Insurance Discount Act. Initiative Statute – "NOT REAL ESTATE RELATED" (June 2010 ballot)

Safe, Clean, and Reliable Drinking Water Supply Act of 2010 Bond Initiative – "NEUTRAL" (Proposition Number Pending for November 2010 ballot)

*NOTE: C.A.R. has previously taken the following positions on upcoming June 2010 ballot measures:*

*Proposition 13 – Property Tax: New Construction Exclusion: Seismic Retrofitting. Legislative Constitutional Amendment. – "FOR"*

*Proposition 15 – Political Reform Act of 1974: California Fair Elections Act of 2008. Legislative Statutory Amendment. – "NOT REAL ESTATE RELATED"*

### **Membership**

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

Amador County AOR  
Marlene Brandt  
Marie Scofield

Arcadia AOR  
Lanny Aplanalp  
Ella Ranger

Berkeley AOR  
Caroline Slotemaker-de-Bru

California Desert AOR  
Barbara Peters

Citrus Valley AOR  
Bill Scane

Delta AOR  
Frank Aiello  
William Craig  
Bob Gunson  
Betty Inzerillo

East Valley AOR  
Ellowise Livingston

Glendale AOR  
Seb Sterpa

Greater Antelope Valley AOR  
Walt Troth

Humboldt AOR  
Dick Lindstrom

Inland Valleys AOR  
Wally Waldron

Laguna BOR  
Joni Baker  
Patricia Truman

Madera AOR  
Lea Martinelli

Malibu AOR  
Vera Hofer  
Madeline Wright

Monterey County AOR  
Dale Le Clerc  
Annis Lembo  
Dominic Mineo  
Clarence Saunders  
Clair Wright

Newport Beach AOR  
Marcia Bents  
John Jacobs  
David Myhre  
John Stonis  
Goly Van Orden

North San Diego County AOR  
Dianne Buran

Pacific West AOR  
Joseph Berger  
John Chakos  
Ralph Dunham  
Richard Gerry  
Lois Givens  
Priscilla Jachel  
William Kuni  
Louise Lynch

Josephine Moore  
Joan Mueller  
Norma Radosevich  
Pat Reece  
Palm Springs Regional AOR  
Joan Baker

Pasadena-Foothills AOR  
Nancy Gibbs  
Veronica Terry

San Luis Obispo AOR  
William Broadbent  
Sheila Greenwood

Santa Clara County AOR  
Lawrence Fargher  
Mary FitzGerald  
Gaylord Lemke  
Richard Martinez  
Jeannette Mihalak  
Helen Ross

South Bay AOR  
Mary Kay Birmingham

Southland Regional AOR  
Norma De Haas

Tulare County AOR  
Glen Burrough

Ventura County Coastal AOR  
Joan Owen  
Barbara Wouters

Yolo County BOR  
Dick Partain

**MLS/Computer and Business Technology**

1. That a work group be formed drawing from the MLS/CBT Committee, the Professional Standards Committee, and the REO Advisory Working Group members to address the issue of pre-listing marketing.
2. To make changes to the C.A.R. Model MLS Rules which reflect the following policy decisions, such rules to be effective upon NAR approval:

- a. That the Model Rules be revised to adopt an Article 11 competency standard;
- b. That the Model Rules be revised to adopt an interim training requirement;
- c. That the Model Rules be revised to conform to NAR's revised COE so that where disclosure of the existence of offers on the property is authorized, that the listing broker's duty to disclose the source of the offers (i.e. whether offers are obtained by that licensee or their office or a cooperating broker) arises only if asked;
- d. That additional clerical user requirements which enhance accountability be added to the California Model MLS Rules;
- e. That the rules require a person with dual licenses to declare which one (or both) they are using to operate under the MLS;
- f. That the Model Rules provide a process for denying participation rights by using the California Code of Ethics and Arbitration Manual (which would have some minor provisions added for this) so that specifics of a hearing would be in place;
- g. That there be a rule prohibiting duplicate listings by the same Participant within the same property class;
- h. That the Model Rules setting forth the timing for submission of listings be amended to provide that the listing should be submitted within 2 days after all necessary signatures of the sellers have been obtained on the listing or at the start date of the listing, whichever is later;
- i. That the rules governing timing for status changes when cooperating agents deal directly with seller "model" the current 2 day requirement, i.e. that the cooperating agent has 2 days to notify the listing agent of pending and sold statuses, and then the listing agent has 2 days after notice to input the changes;
- j. That the rules regarding use and misuse of remarks be expanded to include examples to allow for greater clarity for the Participants and Subscribers;
- k. That a rule be added that allows the MLS to immediately remove an active listing remaining on the system after suspension or expulsion if Participant fails to comply with the rules;
- l. That auction provisions be added to the Model MLS Rules which include the following specifications:
  1. it must be clearly identified as an auction listing;
  2. whether the auction is with or without the seller's right of reservation;
  3. date, time and place of the auction;
  4. all the required procedures for Participants/Subscribers to register their representation of a potential bidder;
  5. compensation to be paid to the Participant representing the successful bidder;
  6. time or manner in which potential bidders may inspect the listed property;
  7. whether or not the seller will accept a purchase offer prior to the scheduled auction including compensation;
  8. any other pre-auction details and material rules or procedures for the auction;
- m. That the Model Rules prohibit placing a non-MLS Participant's name as a co-listing broker;
- n. That the Model Rules adopt a DOM/CDOM clause where CDOM is based on APN numbers and DOMs are tied to the brokerage firm and MLS listing and the CDOM reset clock be set at 90 days after the property has been off the market without a listing agreement or change of ownership.

3. It was reported for information only that a work group will be assembled to work with staff to consider a Model Citation Policy to present to the C.A.R. MLS/CBT Committee for further discussion and consideration at the next C.A.R. meeting.

### **Political Affairs**

1. That the name of the Political Affairs Committee be changed to REALTOR® Action Fund Committee and the following mission statement be approved.

#### **REALTOR® Action Fund Committee Mission Statement**

The mission of the committee is to provide education and training for politically involved REALTORS® to develop appropriate structures for effective communication with elected officials at each level of government; and to provide support for REALTORS® in the areas of fundraising, education and the Member Mobilization Program. The committee's primary function is to raise funds through the REALTOR® Action Fund, train local associations and to provide political education to local members, as needed. (February 2010)

2. That notice be given to the directors for vote at the next regularly scheduled C.A.R. directors' meeting that each member, consistent with the structure of the variable dues formula\*, be assessed for political purposes for 2011 and beyond the amount of \$49 by making a contribution to CREPAC or CREIEC for the assessed amount; or paying the assessment to C.A.R.'s Political Activities Fund (PAF).

*\*NOTE: The variable dues formula structure is in the CAR and NAR bylaws and virtually every local Association bylaws. It provides that dues are in an amount plus the same amount times the number of REALTORS® licensed directly or indirectly to the REALTOR® unless those licensees have joined as REALTORS® or REALTOR-Associates® directly. For example, if a REALTOR® has 100 agents and 80 of them join directly and the dues are \$50, then the REALTORS®' dues are 1 (the R) + 20 (the nonmembers) =21. The total dues for that member is  $\$50 \times 21 = \$1,050$ . Therefore, the Political Assessment in this same office would be  $\$49 \times 21 = \$1,029$*

### **Professional Standards**

1. That C.A.R. advocate a position to NAR that NAR expand its policy so that a suspension or expulsion that is imposed by one AOR for violation of the Code of Ethics may be permissively upheld by all other AORs where the REALTOR® concurrently holds membership.

### **Standard Forms Advisory**

It was reported for information only that the Standard Forms Advisory Committee (SFAC) received reports from 14 Regional Representatives. The reports were generally supportive of the proposed RPA with suggestions by some regions regarding the loan contingency period and other items. The SFAC had two meetings (one in conjunction with the RPA Study Group) earlier this week to review the latest draft of the RPA. They reviewed an additional 32 comments that were submitted via the Forum on Forms. The Committee agreed to approximately a dozen minor changes and corrections to the RPA. With the approved changes, the SFAC voted to release the following forms in April 2010:

--California Residential Purchase Agreement & Joint Escrow Instructions (RPA-CA)

--FHA or VA Notice and Addendum (FVA)

--Table of Contents- Residential Purchase Agreement (TOC-RPA)

--Wood Destroying Pest Inspection & Allocation of Cost Addendum (WPA)

The Committee also agreed to update any forms as needed that will need to be changed as a result of the forthcoming RPA revisions. The SFAC also received an update that the Property Management Study group has had one meeting and will have subsequent meetings to review C.A.R. property management forms. An update from this study group will be provided to the SFAC in June 2010. Finally, the SFAC reviewed 64 of the approximately 87 comments received.

### **Strategic Planning & Finance**

1. That the statement of operating income and expenses by program for the eleven months ending November 30, 2009 be approved.

Total C.A.R.

Revenue of \$26,322,800

Expenses of \$21,976,200

An excess of income over expenses of \$4,346,600

Political Activities Fund

An excess of income over expenses of \$1,827,800

Issues Action Fund

An excess of income over expenses of \$939,800

The C.A.R. Balance Sheet as of November 30, 2009

Total assets of \$61,643,500 (of which \$44,368,000 are current assets)

Total liabilities of \$3,236,400 (of which \$3,055,500 are current liabilities)

C.A.R. Fund Balance of \$58,407,100

2. That the projected statement of operating Income and expenses by program for the year ending December 31, 2009 be approved.

Total C.A.R.

Revenue of \$27,098,600

Expenses of \$25,188,100

An excess of income over expenses of \$1,910,500

Political Activities Fund

An excess of income over expenses of \$1,756,400

Issues Action Fund

An excess of income over expenses of \$783,500. This amount will be allocated to IMPAC as approved by the Directors.

### **Transaction & Regulatory**

1. That C.A.R. modify its sponsored legislation regarding local government vacant property

maintenance ordinances to:

- a. Allow actual and reasonable local government nuisance abatement assessments to survive foreclosure.
- b. Require local government to publish a schedule of fees that may be recovered for services rendered to the property.

2. It was reported for information only that C.A.R. will consider Pre-Listing signage issues in the MLS/Computer and Business Technology Committee, and that staff has been directed to provide detailed background information regarding increased collection of DRE fines penalties and costs of enforcement for consideration in October as possible legislation in 2011, and regarding changing the 4-year license to a 2-year license term, for consideration in October as possible legislation in 2011.