

# Community MOMENTS



**Jessica Guererro**

*Community Association Manager*

RealManage Northern California

April 2019





## Message From The President

*I trust this message finds you and your community well. It seems as though it was only yesterday that the New Year had commenced, yet here we find ourselves already into the second quarter. Temperatures, thankfully, seem to be rising in many parts of the country; which is perfect timing as we get ready for amenity season to be in full swing.*

*Our focus this quarter continues to be providing the best level of service to our valued clients by working as a team made up of A-players that are committed to being the best versions of themselves. And by being the best version of themselves, enables them to provide our clients with the best possible customer service.*

*Thank you as always for the trust that you have placed in RealManage to manage your communities. Should you ever desire to provide feedback, please do not hesitate to reach out to [clientsatisfaction@realmanage.com](mailto:clientsatisfaction@realmanage.com).*

**Chris Ayoub**

*President, RealManage*



### Employee Spotlight: Jessica Guererra

RealManage Northern California



### Board Spotlight:

Daryl Brister | Pine Mill Ranch - Katy, TX



### Mary's Corner

Rule And Enforcement Development VII



### Mary's Corner (cont.)



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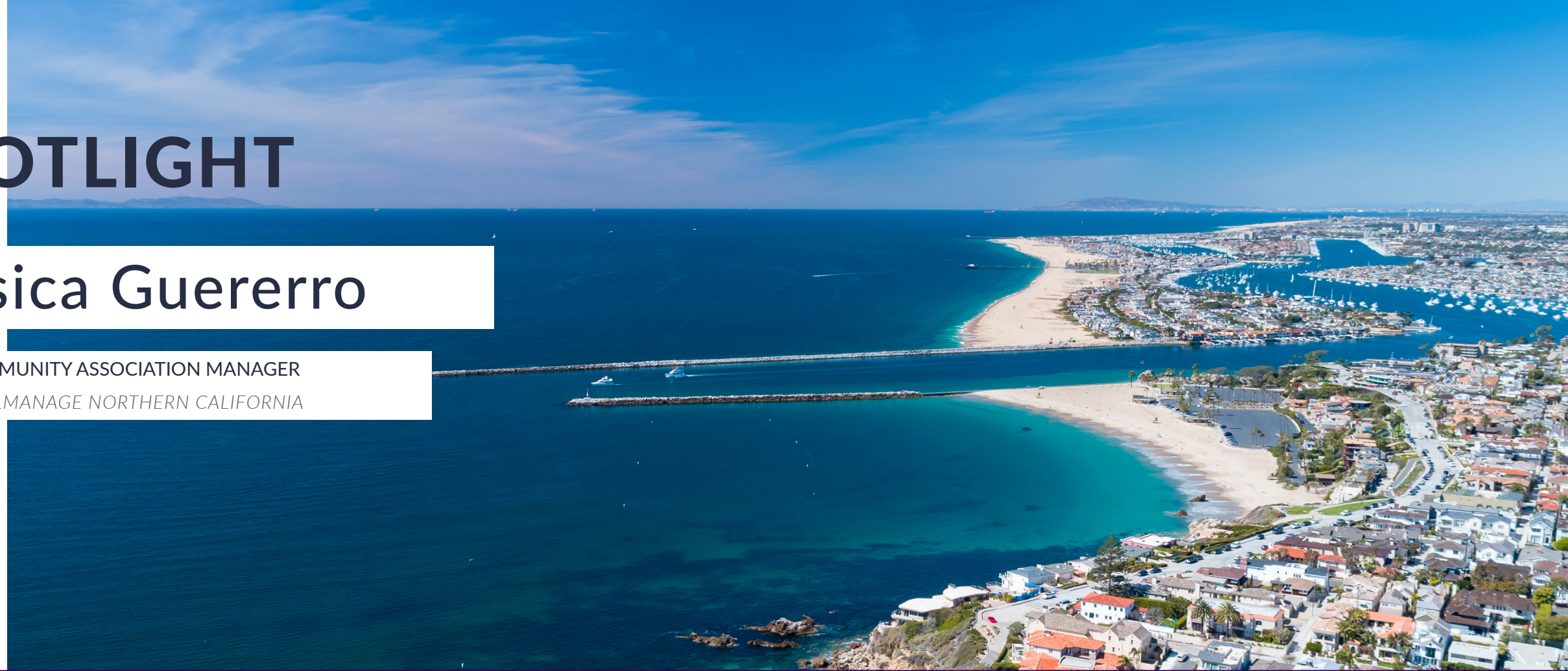
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# EMPLOYEE SPOTLIGHT

## Jessica Guererro

COMMUNITY ASSOCIATION MANAGER  
REALMANAGE NORTHERN CALIFORNIA



We are so proud to spotlight one of our amazing team members, Jessica Guerrero. Hired in February of 2017 as an ACAM in the Marin office, Jessica immediately jumped into her role with excitement.

Jessica has recently relocated to Napa from Southern California. Having worked as a licensed cosmetologist, as well as in the hospitality industry, she was eager to learn a new field using her years of experience in customer service, as well as her strong organizational skills. She quickly learned the Ciranet system, making her the “Go-To” person in the office for assistance whether in the software or other processes such as setting up voicemail.

In late 2017, recognizing her skill set and talent for property management, she was promoted to an on-site assistant manager at a GrandManors community in the Bay area. While on-site, she again demonstrated her strong people, organizational and management skills, resulting in improved service to that community.

In the summer 2018, Jessica and her Fiancé, Frank, and their two dogs, Choochy & George, relocated to the Sacramento area where they bought their first home. They are busy settling in to their new home and putting the final touches on their upcoming May wedding.

The move to the Sacramento area allowed us to eagerly promote her to the RealManage portfolio management team as a Community Association Manager. She was assigned a full portfolio of nine communities that are located anywhere from Sacramento to South San Francisco. She jumped right in to getting to know the communities, the boards and their needs. She used those amazing organization skills to get their projects moving, whether it was bringing in a Hawk vendor to scare away pigeons or helping to get a stalled siding project underway.

In preparing this article, we asked the Verano Homeowners’ Association if they had any feedback about Jessica they would like to contribute. We immediately heard back from them “Jessica is AWESOME! Seriously, she is on top of all the line items we send her and we do not have to meet monthly anymore”.

In addition to being a pleasure to work with, Jessica continues to shine as a true RealManage ambassador, who embodies our core guiding principles of integrity, respect, selflessness, personal relationships and always improving. We are very thankful to have her on our team.

Written by [Suzette Beck](#)  
Director of Community Association Management



## Board Spotlight

# Daryl Brister

## PINE MILL RANCH KATY, TX



Daryl Brister, board president of Pine Mill Ranch Community Association Inc., has served on the board of directors of since 2015. He is in his second term as board president, after being re-elected to the board in 2018. Mr. Brister was also on the developer board for many years before the transition from developer control. Mr. Brister has shown his dedication to homeowners of Pine Mill Ranch from the beginning. While on the developer board he made sure that the developer lived up to the promises made as far as installing the amenities, securing contractors and contracts for the community. He also worked to ensure that the community was in an excellent financial position when the transfer from developer to resident control happened; so that the changeover went as smooth as possible.

In 2018, Daryl and the other board members decided to change management companies to obtain a higher level of service. The board recognized that for a community of their size there was a strong need to have an on-site manager in place to effectively manage the association. Again Mr. Brister putting the needs of the community first, led the charge to interview and perform due diligence on each company that submitted proposals to the board.

As a board president, Daryl is hands-on with all the contracts, contractors and community management. He likes to meet with all the new vendors one-on-one, to discuss the project, timelines, costs, and management of the project. His famous line to any contractor no matter how small or large the project is, "The contract is yours to lose."



Daryl is also the owner of his own company Shea Capability & Compliance Solutions. Daryl, started this company when he noticed a need for safety and competency needs of the "Next Generation" staff in working in operation type industries in the US.

While taking care of his own business and Pine Mill Ranch HOA, Daryl is also active in his church where he is a Ruling Elder. He brings his leadership skills to mentor young men in leadership and teaches them home repairs. Daryl has traveled across the USA and into Mexico to accomplish this task. Daryl does not stop at one thing, he also mentors Eagle Scouts in their projects, and for the past 14 years has lead a rebuilding team for BP through Rebuilding Together Houston which carries out home rebuilding projects for those in need in the greater Houston area.

During Hurricane Harvey, he also took time to make sure others were safe. While his home community did not flood, some of the surrounding communities did, and Daryl was one of the first responders along with some church members to go into the flooded neighborhoods to aid in rescue attempts.

Daryl's passion is to teach, mentor and help those who are less fortunate than most. His love and care for the community shine through every day, not only by being a board member but for his hands-on approach to the community daily life.

Before moving to Houston/Katy Texas, Daryl and his wife Barbara lived in Louisiana (Geaux Tigers), where he served on the Lake Jolie Vue HOA for four years, two of those years were as the board president. He also served 11 years on the Tourette Syndrome Assoc., of Texas.

Written by *Lisa Presley, CMCA®, AMS®*  
Community Association Manager



In our final segment in our series on Rule Development and Enforcement for Community Associations, we delve into the importance of implementing due process procedure when enforcing rules in your community association and taking advantage of some other resources you have available to you.

### *Implementing Due Process Procedure for Enforcing Rules*

This section will provide an introduction to the enforcement of rules and will cover the following areas:

- Use of a due process procedure to enforce rules
- Alternative dispute resolutions
- Internal resources for enforcing rules
- External resources for enforcing rules
- Enforcement of architectural guidelines
- Architectural variance or change requests

### *Use of a Due Process Procedure to Enforce Rules*

A due process procedure is a formal process designed to protect the rights of all parties involved. There are several benefits to using a due process procedure to enforce community association rules:

- All alleged rule violations are handled in the same manner
- Use of a due process procedure is recognized by the courts as an indication of legally valid rule enforcement
- The vast majority of rule violations can be resolved with this procedure thus avoiding going to court
- The opportunity to be heard in a non-threatening fact-finding forum is often enough to result in a person's voluntary decision to obey a rule
- Such a procedure provides an opportunity to explore alternative means to resolve a violation

### *Basic Steps in a Due Process Procedure for Handling Alleged Rule Violations*

The following are the basic steps in a community association's due process procedure for handling alleged rule violations. If the violation is resolved after any of the steps, it is not necessary to continue the enforcement process. With all steps, be sure to check your state statutes or governing documents, or consult with your attorney, for guidance with the formal enforcement process, as not all of these may be applicable for your association.

**Consider calling the resident or sending a courtesy letter to resolve the violation.**

- While phoning a resident is the best customer service step to take, it may prolong the due process procedure if state statutes or governing documents require that the first formal step must be a cease and desist letter

**Issue a formal "Cease and Desist" letter by certified mail which contains:**

- A specific description of the alleged violation
- The action required to resolve the alleged violation
- A specific time within which the alleged violation must be corrected
- The penalty (sanction) which may be imposed after a hearing if the alleged violation is not corrected within the stated time (specified by state statute, your governing documents or board resolution)

**Issue a hearing notice if the alleged violation is not resolved within the stated time.**

- This is a written notice to an alleged violator that a hearing will be held to consider the alleged violation.

**Hold the scheduled hearing if the alleged violation is not resolved within the stated time.**

- This is a fact-finding session. It is an inquiry into the allegations and an investigation of them. A hearing should be viewed as an opportunity for both the association and the alleged violator to have committed a violation or not - or decide that not enough clear evidence was submitted to allow the panel to reach a clear decision.

**Allow for an appeal of a decision.**

- An appeal is a request for a review of a case by a higher authority. For example, if the hearing panel is a committee, the board of directors acts as the higher authority. If the board of directors is the hearing panel, the alleged rule violator must appeal to an authority outside the community association; for example, alternative dispute resolution.

If applicable legal sources allow, you may shorten the due process procedure by combining the "cease and desist" letter with an imposition of a penalty and a statement of the alleged violator's right to a hearing to waive (dismiss) the penalty. If the alleged violator does not request a hearing within the stated time, the party is understood to have accepted the penalty. If the party does not fulfill the penalty, then a hearing is scheduled.



Check your governing documents carefully. Many recent documents specify a “due process” procedure which would prevail. Also, check your state statutes to determine whether deliberations can be held in private or must remain open and if there are regulations regarding the issuance of the findings of the panel.

### Alternative Dispute Resolutions

A number of community associations are turning to alternative dispute resolution (ADR) as a means of encouraging people to comply with rules and guidelines. It involves submitting a dispute to a trained, uninvolved third party for assistance with solving a problem. The third party's decision may be non-binding, or the third party may merely act as a facilitator. However, this approach can be a more efficient and effective way to resolve a dispute than a drawn-out lawsuit.

An alleged rule violator might consider ADR if he or she is dissatisfied with the community association's decision or appeal verdict. A community association might propose ADR when confronted with a difficult rule enforcement situation or the possibility of prolonged litigation. In many jurisdictions, ADR is either required or encouraged before filing suit or during the discovery process after the lawsuit was filed - but before trial.

### How Arbitration Differs from Mediation:

Arbitration is a process in which a third party (the arbitrator) renders a decision as to the respective liabilities of all parties. The object is not to reach a settlement; instead, the arbitrator ultimately makes a ruling. It is an adversarial process that results in the same “win-lose” or “lose-lose” that you would see in litigation. The arbitration can be binding or non-binding; a binding arbitration typically cannot be appealed.

In contrast, mediation is a non-adversarial process that is intended to bring about a “win-win” resolution. A neutral third party (a mediator) attempts to guide the parties into reaching a resolution that is favorable to everyone. Like arbitration, mediation can be binding or non-binding, depending on the terms agreed upon between the parties before the session begins. The mediator does not attempt to blame either party and should not take sides. However, the mediator will often give his/her opinion on the outcome of the case, should it go to trial, in order to facilitate settlement. A good mediator also will attempt to make the parties see the realities of their position.

### Internal Resources for Enforcing Rules

There are a number of internal resources a community can use to encourage an owner or tenant to conform to community association rules, as allowed by the governing documents and applicable state and local statutes:

- **SUSPENSION OF OWNER'S VOTING RIGHTS:** While mild, a community association may use this to encourage rule violators to conform to association rules.
- **SUSPENSION OF THE USE OF RECREATIONAL FACILITIES AND COMMON AREAS:** Uses the community's resources to encourage someone to conform to association rules.
- **FINES:** Be sure your community association has the authority to impose and collect fines.
- **EVICTION:** The process of physically removing a tenant (not an owner) from a property. This process involves the local court system and use of an attorney.
- **SELF-HELP:** Self-help means the community association takes action to correct the violation itself.

### External Resources for Enforcing Rules

Community associations can also draw on resources within the broader community to help them enforce association rules. In certain situations, it may be better to have someone else wear the black hat instead of the association and its management. Local government agencies and municipal services can be great resources for enforcing rules. Take the time to build working relationships with each of the following parties.

- **LOCAL HEALTH DEPARTMENT:** Your local health department can be asked to enforce the local health code. Possible areas of violation include the number of occupants in a unit, internal use of a unit or storage on a lot, or pervasive stench or pet feces.
- **LOCAL ZONING DEPARTMENT:** This local agency can assist with enforcement of such rules as a fence or shed regulations, setback restrictions, restrictions on commercial use of dwellings, and removal of vehicles, boats, and trailers.
- **LOCAL POLICE DEPARTMENT:** In some jurisdictions, the police will enforce traffic regulations or tow violators of the community's parking rules. The police can also help the noise control and suspected illegal activity. It is a good idea to develop a good working relationship with your local police department before you need its help.
- **LOCAL FIRE DEPARTMENT:** Your local fire department will help with enforcement of fire lanes and the removal of hazardous materials.
- **LOCAL BUILDING/HOUSING/PROPERTY STANDARDS DEPARTMENT:** These terms refer to the local government office that issues building permits. They may be able to help if a unit is in violation of an existing building, plumbing, fire or electrical code.
- **LOCAL ANIMAL SHELTER OR ANIMAL CONTROL OFFICER:** This agency is a good source of information on types of pets and weight classifications when your community association is defining rules for pets. You can also request that this agency patrol your community for animals in violation of its pet rules.

### Resources

A community's enforcement of architectural guidelines can be upheld in a court of law. The keys to the successful enforcement of architectural guidelines are the same as the keys to the successful enforcement of other rules. The board should refrain from turning a blind eye toward violations. They should report any known violations to the manager promptly. If unapproved architectural changes are permitted to exist, the association may be hindered if it later tries to enforce the rule that was violated.

### Architectural Variances and Exceptions

One resource for successfully enforcing architectural guidelines is an established process for handling architectural variance or exception requests. Prepare and publish an architectural variance request form. Consider including a neighbor awareness section that requires the applicant seeking the variance to obtain the signatures of neighbors indicating they have been informed of the pending changes. When considering requests for variances:

- Determine the direct impact the violation has on the value or purpose of the association
- Make sound business decisions in keeping with the best interests of the community and its members
- Document the decisions for making the variance or exception





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