

CAUSE NO. 25-377-D

SELINA TIJERINA,

Plaintiff,

VS.

CITY OF KINGSVILLE, TEXAS;
et al.,

Defendants.

IN THE DISTRICT COURT

105TH JUDICIAL DISTRICT

OF KLEBERG COUNTY, TEXAS

BRIEF OF *AMICUS CURIAE*
LANCE D. HAMM IN SUPPORT OF DEFENDANTS AND
PRAY FOR COURT TO DENY WRIT OF MANDAMUS

INTRODUCTION

This *Amicus Curiae* brief is tendered on behalf of Lance D. Hamm, a private resident and registered voter residing in the City of Kingsville and Kleberg County, Texas. This brief is submitted in opposition to the Plaintiff’s pray that the Court “issue a Writ of Mandamus ordering the Commission (or if necessary, directing the Kleberg County District Judge) to schedule and conduct the recall election in compliance with the Kingsville Charter and Election Code timelines, award relator the costs of court and reasonable attorney’s fees, if authorized by law, and grant any additional relief the Court deems just and proper.” (quoting Plaintiff’s *Petition for Writ of Mandamus*, page 5 and 6, ISSUE AT HAND, 105th District Court, Kleberg County, Civil Action No. 25-377-D). See Exhibit A, Plaintiff’s *Petition for Writ of Mandamus*.

This *Amicus Curiae* brief presents a primary argument (labeled **ARGUMENT 1** in this brief) for the Court to consider and prays for the Court to deny the Plaintiff's *Petition for Writ of Mandamus* on grounds that the Court does not have the authority, and/or legal grounds, to issue such writ because the City Charter "with reference to such recall," specifically states that "all of the requirements of this Charter shall have been met" (*see* Exhibit B, quoting City Charter, Article II, Section 24 (7)) before the Court can issue a writ of mandamus ordering the City Commission "to schedule and conduct the recall election" (*see* Exhibit A, quoting Plaintiff's *Petition for Writ of Mandamus*, No. 25-377-D).

This *Amicus Curiae* brief presents supporting arguments (labeled **ARGUMENT 2 through 5**, in support of Argument 1), listed below as prerequisite requirements of the City Charter's Recall statutes THAT HAVE NOT BEEN MET, which should prevent the Court from having the authority, and/or legal grounds, to issue the writ and should allow the Court to deny the Plaintiff's *Petition for Writ of Mandamus*:

2. Violation of Requirement to Return Recall Petition within Thirty (30) Days
3. Violation of Requirement for Distinct and Specific Language Defining Grounds for Removal
4. Violation of Requirement of Minimum Number of Signatories on the Recall Petition
5. Violation of Requirement to Present Certified Petitions to the City Commission

Furthermore, **ARGUMENT 6** is presented to the Court to deny the Plaintiff's *Petition for Writ of Mandamus* on grounds that the City Charter does not stipulate a timeframe for the City Commission to perform the duty "to schedule and conduct the recall election" (*see* Exhibit A, quoting Plaintiff's *Petition for Writ of Mandamus*, No. 25-377-D) that the plaintiff alleges the City Commission failed to do, resulting in the plaintiff requesting the City Commission to perform such duty in the writ of mandamus. Therefore, without a specific timeline to perform the

duty in the City Charter, no harm to the plaintiff or violation of the City Charter has occurred, as the City Commission can simply perform the duty anytime in the future.

In opposition to the Plaintiff's assertion of wrongdoing of the City Commission's failure to perform the duty "to schedule and conduct the recall election" (*see* Exhibit A, quoting Plaintiff's *Petition for Writ of Mandamus*, No. 25-377-D) and the Plaintiff's petition for this court to issue a writ of mandamus that is based on the Plaintiff's possible false assumptions that all City Charter prerequisite requirements for a properly accepted and certified recall petition have been met; this *Amicus Curiae Brief* presents six (6) arguments to the court (labeled **ARGUMENT 1 through 6**) praying for the denial of the *Petition for Writ of Mandamus*, as requested by the Plaintiff.

INTEREST OF AMICUS CURIAE

Lance D. Hamm is a City of Kingsville registered voter and resident of Kingsville and Kleberg County, Texas. Lance Hamm is a self-proclaimed traffic safety advocate who does not want city officials to waste city tax dollars on unnecessary legal fees attributed to an adversarial lawsuit against the city or expenses to cover recall election(s) that have the high probability of being overturned by adversarial court action due to violations of the City Charter. Lance Hamm would like to see those tax dollars spent on pedestrian safety devices within the city limits (sidewalks, bike paths, lower speed limits, and proper signage in school zones). Lance Hamm had recommended to the City Commission on July 21, 2025, (by email) to request a Declaratory Judgment from an appropriate Court to determine if the City's RECALL process had been conducted in accordance with the City Charter. It was in this email that Lance Hamm informed the City Commission about the thirty (30) day violation of the City Charter. Unfortunately, this recommendation to the City Commission was not acted upon.

ARGUMENTS

- 1. The Court should deny the *Petition for Writ of Mandamus* because not all requirements have been met relating to the recall statutes in the Kingsville City Charter.**

The Kingsville City Charter, Article II, Section 24 (7), states (*see* Exhibit B):

“In case all of the requirements of this Charter shall have been met and the City Commission shall fail or refuse to receive the recall petition, or to order such recall election, or to discharge any other duties imposed upon said City Commission by the provisions of this Charter with reference to such recall, then the District Judge of Kleberg County, Texas, or other judge of competent jurisdiction shall discharge any such duties herein provided to be discharged by the person performing the duties of City Secretary or by the City Commission.”

NOT ALL City Charter Recall requirements have been met that satisfies the City Charter statute that authorizes Court intervention to order the City Commission to perform the specific duty “to schedule and conduct the recall election” (*see* Exhibit A, quoting Plaintiff’s *Petition for Writ of Mandamus*, No. 25-377-D). The following four arguments are presented to the Court (labeled **2 through 5**) to list four specific requirements that were not met as a result of the actions (or inaction) of the recall petitioner(s), city employees, and/or the City Commission.

- 2. The Court should deny the *Petition for Writ of Mandamus* because not all requirements have been met relating to the recall statutes in the Kingsville City Charter, specifically, the petitioner(s) violated the City Charter requirement to return the recall petition to the City Secretary within thirty (30) days from the filing of the recall affidavit.**

The Kingsville City Charter, Part I, Article II, Section 24 (6), states (*see* Exhibit B):

“All papers comprising a recall petition shall be returned and filed with the person performing the duties of the City Secretary within thirty (30) days after the filing of the affidavit herein before provided for.”

On June 6, 2025, the acceptance of the recall petition was in violation of the thirty (30) day requirement for the recall petition to be returned to the City Secretary. The recall affidavit

(see Exhibit C and D) was received and filed by the City Secretary on May 6, 2025, and the papers comprising the recall petition (see Exhibit E) were returned to the City Secretary by the petitioner(s) on June 6, 2025, which was the thirty-first (31) day after the City Secretary received the recall affidavit. Therefore, the recall petition was accepted (not rejected) in violation of the City Charter, specifically, a violation of the City Charter (see Exhibit B), Article II, Section 24 (6) [Presentation of petition, election to be called], that states, “All papers comprising a recall petition shall be returned and filed with the person performing the duties of the City Secretary within thirty (30) days after the filing of the affidavit herein before provided for.”

- 3. The Court should deny the *Petition for Writ of Mandamus* because not all requirements have been met relating to the recall statutes in the Kingsville City Charter, specifically, the petitioner(s) violated the City Charter requirement to submit a statement to be included on each page of the recall petition that distinctly and specifically states the grounds for removal and the City Secretary provided blank copies of the petition pages without this statement of distinct and specific grounds for removal.**

The Kingsville City Charter, Article II, Section 24 (5) (see Exhibit B), states the recall petition:

“must distinctly and specifically state the ground(s) upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, noncompliance with this Charter, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of such matters and things with which he or she is charged.”

On May 6th and 7th, 2025, during the acceptance of the recall affidavit (see Exhibit C and D) and the printing of petition blank copies (see Exhibit E); and on or about June 6th to June 21st, 2025, during the certification of the recall petition (see Exhibit E); these recall processes were performed in violation of City Charter requirements because the petitioner(s) only provided language (used for the grounds for removal) to the City Secretary on the recall affidavit and recall petitions that was generic in nature and not distinct and specific.

The “generic” language submitted by the petitioner(s) to be used on the recall affidavit and the recall petitions violated the City Charter, specifically Article II, Section 24 (5) [Form of recall petition], that states the recall petition “must distinctly and specifically state the ground(s) upon which such petition for removal is predicated, and if there be more than one ground, such as incompetency, noncompliance with this Charter, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of such matters and things with which he or she is charged” (*see* Exhibit B). The acceptance of the recall affidavit and acceptance and certification of the recall petitions were in violation of the City Charter because the petitioner(s) only used generic language to state the grounds for removal and did not state which ground(s) applied to which commissioner(s), what dates did the misconduct occur, what specific conduct was unprofessional and when, what specific behavior was unprofessional and what date did it occur, what specific fiscal responsibilities were neglected and when did the neglect occur, what personnel were targeted and when/how, and what specific city government policies and procedures were neglected and when. The petitioner(s) grounds for removal as stated on the recall affidavit and as provided by the petitioner(s) for the printing of the recall petitions are listed below (see Exhibit C, D, and E).

- Unprofessional conduct/behavior of a City Commissioner,
- Neglect of fiscal responsibilities,
- Targeting personnel, and
- Neglect of City Government policies and procedures

4. The Court should deny the *Petition for Writ of Mandamus* because not all requirements have been met relating to the recall statutes in the Kingsville City Charter, specifically, the City Secretary and/or the City Attorney violated the City Charter by certifying the recall petition without the City Charter requirement that the recall petition shall have a minimum of 2,805 valid signatories.

The Kingsville City Charter, specifically, Part I, Article II, Section 24 (4), states (*see*

Exhibit B):

“Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least twenty percent (20%) of the number of qualified voters voting in the most recent city election. Such petition shall contain a general statement of the grounds for which the removal is sought.”

On or about June 6 to June 21, 2025, the certification of the recall petition by city employees (*see* Exhibit E) violated the City Charter by only requiring a minimum of 282.4 signatories, whereas 292 signatories were certified by the City Secretary as valid out of a total of 330 signatures on the petition (*see* Exhibit F, City Secretary’s Comments at the June 23, 2025, City Commission meeting) rather than the 2,805 minimum signatories required by the City Charter.

The recall petition only had 292 certified signatories (282.4 minimum required) which is a violation of the City Charter that requires 2,805 signatories (minimum) on the recall petition to be legally certified, specifically a violation of the City Charter, Article II, Section 24 (4) [Petition], as stated above. The large discrepancy between 2,805 and 282.4 stems from the poor language used in the City Charter, specifically the term, “qualified voters voting.” Most cities in Texas, when trying to extract a percentage of qualified (registered) voters, may have removed the word “voting” in their charters because it is confusing on how the word is used in the sentence. It is easy to understand that many people would assume that “voting” is a verb and they may easily convert the word “voting” to “voted” or “votes cast” to assume the number of voters is extracted from the number of voters that have submitted a ballot or cast their vote. Unfortunately, this is not how “voting” is used in this section of the City Charter. “Voting” in the phrase “qualified voters voting” is used as a noun, specifically and gerund (a verb form used as a noun) that is describing an activity (like “licensed hunters hunting on King Ranch property in 2024,” or

“registered fishermen fishing in the December 2025 Gulf Coast Fishing Tournament” or “the number of qualified voters voting in the upcoming general election in November of 2025”). The gerunds ending in “-ing” (voting, hunting, and fishing) all are used as nouns in the sentences and describe an activity. Therefore, 20% of the qualified voters at the “activity” of the May 2024 Kingsville City election is 2,805 (20% of 14,025 registered voters) and not the ridiculously low number of 282.4, which is 20% of the “votes cast” (or ballots submitted) in the 2024 election (20% of 1,412 votes cast).

Furthermore, the City Charter uses distinct language when extracting a number of voters that “cast votes” in two separate sections of the City Charter. The wording “votes cast” is used in the **RECALL** section of the City Charter, specifically (Part I, Article II, Section 24 (9), Result of recall election), that states (see Exhibit B):

“If the majority of the **votes cast** at a recall election shall be against the recall of the person named on the ballot, he or she shall continue in office for the remainder of his or her unexpired term, subject to recall as before. If a majority of the **votes cast** at such an election be for the recall of the person named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office.”

The second example in the City Charter is in Article V, Section 5 [Elections], that states:

“The elective officers of the City shall consist of five (5) commissioners, one of whom shall be designated as Mayor, and the names of the candidates for Mayor and Commissioners shall be printed on one ballot and submitted to the qualified voter for election. From and after the regular City election to be held in May 2024, the Mayor and all four Commissioners shall stand for election. The candidate for Mayor shall be elected at large by majority vote and the four candidates for Commissioners shall be elected at large by member places one (1) through four (4) and voted in by a majority vote. After the election and canvass of the returns and declaration of results, the candidates for the respective offices shall be elected by a simple majority vote. **A simple majority vote is defined as fifty (50) percent plus at least one (1) vote of the votes cast in the election for the respective position.** In the event no candidate shall receive a majority of the **votes cast**, the governing body shall call a runoff election in the manner provided by state law. (Amended by electorate, 11-7-23)”

Therefore, if the authors of the City Charter wanted 20% of “votes cast” in the last election to be the exact minimum number of voters to sign a recall petition, they would have used that language (“votes cast,” a verb-form describing completed action of voters that submitted their ballot, with no need to clarify the votes casts with “qualified voters” because it is presumed that if you submit a ballot then you received that ballot from a voting official that checked your registration and identification). Here are a few examples of Charter language taken from other Texas cities:

- **City of Alice, TX:** “equal in number to at least five (5) % of the number of voters who cast their ballot in the last city election or a minimum of 100 valid signatures”
- **City of Texas City, TX:** “number of at least fifty percent of the number of voters who cast their votes at the last preceding regular municipal election; provided, however, that the petition shall not be effective unless it bears the signatures of at least one hundred voters of the city.”
- **City of La Marque, TX:** “at least fifty-one (51%) percent of the total number of votes cast in the last contested election”
- **City of Austin, TX:** “The minimum number of valid signatures to recall a council member would be “at least 10 percent of the qualified voters” of that council member’s district. “Qualified voter” means registered voter. [See Texas Election Code, §277.0021]”
- **City of Luling, TX:** “petition shall be signed by qualified voters of the City equal in number to at least thirty (30%) of the number of registered voters as of the last regular municipal election of the City, but in no event not less than seventy-five (75) petitioners.”

The Kingsville City Charter uses the language “qualified voters voting” to mean registered voters participating in the “activity” (noun, from election registration to ballot submittal) of the May2024 election, which is 20% of 14,025 qualified voters which equals 2,805 minimum signatories required for a recall petition to be certified (not 282.4 minimum).

5. **The Court should deny the *Petition for Writ of Mandamus* because not all requirements have been met relating to the recall statutes in the Kingsville City Charter, specifically, the City Secretary violated the City Charter requirement to present the recall petition to the City Commission at the regular meeting of the City Commission on June 23, 2025.**

The Kingsville City Charter, Part I, Article II, Section 24 (6), states (*see* Exhibit B):

“All papers comprising a recall petition shall be returned and filed with the person performing the duties of City Secretary within thirty (30) days after the filing of the affidavit herein before provided for. The person performing the duties of City Secretary shall certify said petitions within fifteen (15) days of receipt and present such certified petition to the City Commission at the next regular City Commission meeting.”

On June 23, 2025, the City Secretary violated the City Charter by not presenting the certified recall petition to the City Commission (*see* Exhibit F). The paperwork comprising the certified recall petition was not presented to the City Commission by the City Secretary during the June 23, 2025, regular meeting of the City Commission in violation of the City Charter, Article II, Section 24 (6) [Presentation of petition, election to be called]. In fact, three of the City Commissioners had to pay money through the city’s “Request for Open Records” process to receive the certified petitions (*see* Exhibit E). Therefore, the City Charter was violated because 1) the certified recall petitions were not presented to the City Commission, 2) the three commissioners being recalled were given notice of a deadline of June 28, 2025, to resign, although the legal prerequisites (presentation of certified recall petitions) in the City Charter for such notice was violated, and 3) the City Commission was notified that an agenda item to order a recall election and fix a date for holding such election would be presented to the City Commission at the next City Commission meeting which was the “duty” of the City Commission although the legal prerequisite (presentation of certified recall petitions) in the City Charter for acting on such “duty” was violated.

6. **The Court should deny the *Petition for Writ of Mandamus* (or other court action) ordering the Kingsville City Commission to call a recall election because the Kingsville City Charter does not stipulate a timeframe for the Kingsville City Commission to perform the specific duty “to order an election and fix a date for holding such recall election, the date of which election shall be in accordance with**

the Texas Election Code” (quoting the City Charter, Part I, Article II, Section 24(6)). That “duty” may be performed by the City Commission anytime in the future. Therefore, the City Commission has not failed in their duty but simply has not performed their duty at the present time.

The Kingsville City Charter, Part I, Article II, Section 24 (6), states (*see* Exhibit B):

“All papers comprising a recall petition shall be returned and filed with the person performing the duties of City Secretary within thirty (30) days after the filing of the affidavit herein before provided for. The person performing the duties of City Secretary shall certify said petitions within fifteen (15) days of receipt and present such certified petition to the City Commission at the next regular City Commission meeting. If the officer whose removal is sought does not resign within five (5) calendar days after such notice is given, then it shall become the duty of the City Commission to order an election and fix a date for holding such recall election, the date of which election shall be in accordance with the Texas Election Code Annotated.”

The Court should deny the *Petition for Writ of Mandamus* (*see* Exhibit A) that compels the City Commission to perform a “duty” because the City Charter does not specify a timeframe for which that “duty” must be performed. The City Commission has not failed to perform the “duty.” The City Commission simply has yet to perform the “duty.” The statutes of the City Charter do not specify a timeframe for the alleged “duty” to occur and the “duty” in question of the City Commission may be satisfied by City Commission action and/or a vote on an ordinance or resolution in the future. All five City Commissioners, to date, have not accomplished the “duty” whereas all five City Commissioners have not yet placed an agenda item at a meeting to vote on the “duty” which they had an opportunity to do so, specifically the 2025 meetings on July 28, August 11, August 13, August 25, and September 02, 2025. The City Commission will Have future meetings where they may perform the “duty” and satisfy the requirements of the City Charter.

CONCLUSION

Kingsville City employees and elected officials must stop violating the City Charter relating to the RECALL process and the City Commission must be informed immediately when it is known that the City Charter has been violated. The Plaintiff may, or may not, have had knowledge of the City Charter violations outlined in this brief, but in any case, personal funds and city taxpayer dollars could have been saved had city officials publicized the thirty (30) day violation, and other City Charter violations, in an open meeting (as early as July 21, 2025, when they were informed of the violations by email from Lance D. Hamm). The rights of the three commissioners, that are subject to this recall, should not be violated due to biased, conflicted, derelict, or incompetent actions of the plaintiff and/or city employees, who have been argued to have violated the City Charter in this brief. The three commissioners are entitled to a fair and legal recall process that is clearly defined in the City Charter. Based on the arguments presented in this *Amicus Curiae* Brief, the Court should deny the Plaintiff's *Petition for a Writ of Mandamus*.

Respectfully submitted.

/ s /

LANCE D. HAMM

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Lance D. Hamm paid all fees relating to the filing of this *Amicus Curiae* brief.

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APPENDIX

CERTIFICATE OF SERVICE

I, Lance D. Hamm, hereby certify that on this _____ day of September, 2025, a true and correct copy of the foregoing document was sent via first class mail to all counsel of record:

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*Counsel for Defendants, City of
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/ s / _____
Lance D. Hamm

EXHIBIT A: Plaintiff’s *Petition for Writ of Mandamus* (excerpt/first seven (7) pages)
105TH District Court, Kleberg County, Texas, NO. 25-377-D

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E-Filed for Record
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Jennifer Whittington, District Clerk
Kleberg County, TX
By: Amelia Carbajal

NO. 25-377-D

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|-----------------------------------|---|------------------------------|
| SELINA TIJERINA | § | IN THE DISTRICT COURT |
| | § | |
| v. | § | 105TH |
| | § | JUDICIAL DISTRICT |
| CITY OF KINGSVILLE, TEXAS; | § | |
| NORMA NELDA ALVAREZ; | § | |
| HECTOR M. HINOJOSA; and | § | |
| LIONEL “LEO” H. ALARCON | § | KLEBERG COUNTY, TEXAS |

PETITION FOR WRIT OF MANDAMUS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Selina Tijerina, Petitioner, filing this *Petition for Writ of Mandamus*, and showing in support of same unto this Honorable Court as follows:

INTRODUCTION

This Mandamus proceeding asks this Court to compel Respondent City of Kingsville, Texas (“Kingsville”), to enforce the Charter of the City of Kingsville (“City Charter”). Specifically, Petitioner requests that Kingsville enforce Part 1, Article II, Section 24 (“Recall”) of the City Charter, which requires that upon the certification concerning the requirements of a “recall” petition, the City Commission (“Commission”) is required – assuming the commissioners the subject of the petition have not resigned by then – to receive any certified recall petition and fix a date for the recall election.

JURISDICTION AND VENUE

The District Court has original jurisdiction to issue the requested writ of mandamus because Petitioner seeks to mandamus Kingsville to enforce its Charter. Pursuant to Tex. Const. art. V § 8, the District Courts have power to issue writs of habeas corpus, mandamus, injunction and certiorari, and all writs necessary to enforce their jurisdiction.

EXHIBIT A: Plaintiff's *Petition for Writ of Mandamus* (excerpt/first seven (7) pages)
105TH District Court, Kleberg County, Texas, NO. 25-377-D

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Pursuant to § 15.036 of the Texas Civil Practice and Remedies Code, this Honorable Court has jurisdiction, and venue is proper in Kleberg County, Texas, as the cause of action, in whole and/or in part, accrued in Kleberg County and because the Charter specifically references same.

Additionally, under Texas Election Code § 161.009, non-discretionary duties regarding election calls—including recall elections—may be enforced via writ of mandamus, as no other adequate remedy exists.

PARTIES AND SERVICE

Petitioner is an individual resident and qualified voter within the corporate limits of Kingsville, Texas, residing in Kleberg County.

Respondent Kingsville is a political subdivision duly organized under the laws of the State of Texas, and can be served with process upon its Mayor, Sam Fugate, at 400 W. King Ave., Kingsville, Texas 78363.

Respondent Norma Nelda Alvarez ("Alvarez") is currently a Kingsville Commissioner for Place #2, and can served with process at 1125 West Henrietta, Kingsville, Texas 78363.

Respondent Hector M. Hinojosa ("Hinojosa") is currently a Kingsville Commissioner for Place #3, and can served with process at 1318 Christy, Kingsville, Texas 78363.

Respondent Lionel (Leo) H. Alarcon ("Alarcon") is currently a Kingsville Commissioner for Place #4, and can served with process at 223 West Ailsie, Kingsville, Texas 78363.

BACKGROUND FACTS

On June 6, 2025, the City Secretary for Kingsville received recall petitions seeking the removal of Alvarez, Hinojosa and Alarcon as City of Kingsville Commissioners – all of whom were voted into office in May of 2024. (See Exhibit "1," Agenda & Packet for "Item 18"

EXHIBIT A: Plaintiff’s *Petition for Writ of Mandamus* (excerpt/first seven (7) pages)
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concerning “Special Election for the Recall”).

After such receipt, the City Secretary reviewed the signatures for certification and determined that the petitions complied with the City Charter and were signed by at least twenty percent (20%) of the number of qualified voters voting in the most recent city election held May 4, 2024. (*Id.*)

On June 23, 2025, the City Secretary informed the Commission and others that she had certified the recall petition and that if Alvarez, Hinojosa and/or Alarcon did not resign within five (5) calendar days after such notice was given, then it would become the duty of the City Commission “to order an election and fix a date for holding such recall election.” (*Id.*)

Because Alvarez, Hinojosa and Alarcon did not resign, such issue was placed on the July 14, 2025, agenda as “Item 18.” (*Id.*)

On July 14, 2025, the Commission voted – upon a vote of 3-2 (those three votes being lodged Alvarez, Hinojosa and Alarcon) – to reject the recall petition and to refuse to set a recall election. (See <https://www.facebook.com/share/v/14JiR3Mz3Bi/>).

THE CHARTER

The City of Kingsville Charter provides in pertinent part, as follows concerning the recall of city commissioners:

- (1) Scope. **Any member of the City Commission, whether elected to office by the qualified voters of the City or appointed by the City Commission to fill a vacancy, shall be subject to recall and removal from the office by the qualified voters of the City.**
- (2) Restrictions on recall. **No recall petition shall be filed against any officer of the City within twelve (12) months after such officer's election or appointment, nor within six (6) months after an election for such officer's recall, nor within twelve (12) months of the**

expiration of such officer's term.

...

- (4) **Petition.** Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least twenty percent (20%) of the number of qualified voters voting in the most recent city election. Such petition shall contain a general statement of the grounds for which the removal is sought.

...

- (6) **Presentation of petition; election to be called.** All papers comprising a recall petition shall be returned and filed with the person performing the duties of City Secretary within thirty (30) days after the filing of the affidavit hereinbefore provided for. The person performing the duties of City Secretary shall certify said petitions within fifteen (15) days of receipt and present such certified petitions to the City Commission at the next regular City Commission meeting. If the officer whose removal is sought does not resign within five (5) calendar days after such notice is given, then it shall become the duty of the City Commission to order an election and fix a date for holding such recall election, the date of which election shall be in accordance with the Texas Election Code Annotated.

- (7) **Failure of city commission to call an election.** In case all of the requirements of this Charter shall have been met and the City Commission shall fail or refuse to receive the recall petition, or to order such recall election, or to discharge any other duties

EXHIBIT A: Plaintiff's *Petition for Writ of Mandamus* (excerpt/first seven (7) pages)
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imposed upon said City Commission by the provisions of this Charter with reference to such recall, **then the District Judge of Kleberg County, Texas, or other judge of competent jurisdiction shall discharge any such duties herein provided to be discharged** by the person performing the duties of City Secretary or by the City Commission.

(Exhibit "2," Charter of the City of Kingsville, Part 1, Article II, Section 24 ("Recall")
(emphasis added)).

ISSUE AT HAND

The "Commission's" (based on the questionable vote of the very three the subject of the recall petition) refusal constitutes a failure to perform a ministerial duty mandated by both charter and state law.

A writ of mandamus is proper when (a) the relator has a clear legal right; (b) the respondents owe a clear legal duty; and (c) no adequate alternative remedy exists. This standard is met here.

Under Tex. Election Code and the Kingsville Charter, upon submission of a valid recall petition, the Commission must call a recall election; its refusal is non-discretionary.

"Under Article II, Section 24 of the City Charter, the City Commission's obligation to call a recall election upon certification of a valid petition is ministerial – not discretionary. Its refusal to act shifts authority to this Court (through the district judge).

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that the Court grant this *Petition for Writ of Mandamus*, issue a Writ of Mandamus ordering the Commission (or, if necessary, directing the Kleberg County District Judge) to schedule and conduct the recall election in compliance with the Kingsville Charter and Election Code timelines, award relator

EXHIBIT A: Plaintiff's *Petition for Writ of Mandamus* (excerpt/first seven (7) pages)
105TH District Court, Kleberg County, Texas, NO. 25-377-D

EXHIBIT A, Page 6 of 7.

the costs of court and reasonable attorney's fees, if authorized by law, and grant any additional relief the Court deems just and proper.

Respectfully submitted,

GALE LAW GROUP, PLLC
14633 S. Padre Island Dr.
Corpus Christi, Texas 78418
Telephone: (361)808-4444
Telecopier: (361)232-4139

By: /s/ Christopher J. Gale
Christopher J. Gale
Texas Bar No. 00793766
Email: Chris@GaleLawGroup.com

By: /s/ Amie Augenstein
Amie Augenstein
Texas Bar No: 24085184
Email: Amie@GaleLawGroup.com
Attorneys for Petitioner Selina Tijerina

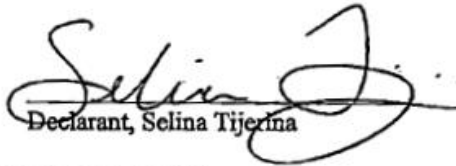
EXHIBIT A: Plaintiff's *Petition for Writ of Mandamus* (excerpt/first seven (7) pages)
105TH District Court, Kleberg County, Texas, NO. 25-377-D

EXHIBIT A, Page 7 of 7.

VERIFICATION/DECLARATION

Pursuant to §132.001 of the Texas Civil Practices and Remedies Code, the undersigned hereby states as follows:

"My name is Selina Tijerina, my date of birth is September 3, 1990, and my address is 1606 E. Huisache, Kingsville, Texas 78363. I declare under penalty of perjury that the foregoing *Petition for Writ of Mandamus* is true and correct."


Declarant, Selina Tijerina

Executed in Kleberg County, State of Texas, on the 13th day of August, 2025.

EXHIBIT B (Page 1 of 4): Kingsville City Charter (excerpt of Article II, Section 24, Recall)

Kingsville City Charter, Part I, Article II, Section 24: Recall

(Amended by electorate, 5-13-06)

§ 24. Recall.

(1) **Scope.** Any member of the City Commission, whether elected to office by the qualified voters of the City or appointed by the City Commission to fill a vacancy, shall be subject to recall and removal from the office by the qualified voters of the City.

(2) **Restrictions on recall.** No recall petition shall be filed against any officer of the City within six (6) months after such officer's election or appointment, nor within six (6) months after an election for such officer's recall, nor within six (6) months of the expiration of such officer's term.

(3) **Recall procedure.** Any qualified voters of the City may make and file with the person performing the duties of City Secretary an affidavit containing the name or names of the officer(s) whose removal is sought and a statement of the grounds for removal. The City Secretary shall immediately notify in writing the officer(s) sought to be removed that the affidavit has been filed and shall inform the officer(s) of its statement of grounds. The City Secretary shall within a period of two (2) working days from the time the affidavit was filed thereupon make available to the qualified voters making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the City Secretary shall bear the signature of the City Secretary and be of such form as prescribed below and shall be numbered, dated, and indicate the name of the person to whom issued. The City Secretary shall enter in a record to be kept in his or her office the name of the qualified voters to whom the petition blanks were issued and the number to said person.

(4) **Petition.** Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least twenty percent (20%) of the number of qualified voters voting in the most recent city election. Such petition shall contain a general statement of the grounds for which the removal is sought.

A signature on a petition for recall is valid only if the petition meets the requirements of the State Election Code.

(5) **Form of recall petition.** The recall petition mentioned above must be addressed to the City Commission of the City of Kingsville, must distinctly and specifically state the ground(s) upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, noncompliance with this Charter, misconduct or malfeasance in office, shall

EXHIBIT B (Page 2 of 4): Kingsville City Charter (excerpt of Article II, Section 24, Recall)

specifically state each ground with such certainty as to give the officer sought to be removed, notice of such matters and things with which he or she is charged. Recall petition papers provided by the person performing the duties of City Secretary shall be in form substantially as follows:

We the undersigned qualified voters of the City of Kingsville hereby demand the question of removing (Name of Person) from the office of (Name of Office) be submitted to a vote of the qualified voters of the City. The charges and specifications upon which this demand for removal is predicated are as follows:

| | | | |
|-----------|--------------|---------------------------|------------------------|
| _____ | _____ | _____ | _____ |
| Signature | Printed Name | Address, including County | Voter Registration No. |

The signatures shall be verified by oath in the following form:

"STATE OF TEXAS

COUNTY OF KLEBERG

I, _____ being first duly sworn, on oath depose and say that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me this day of _____.

Notary Public in and for Kleberg County, Texas"

(6) Presentation of petition; election to be called. All papers comprising a recall petition shall be returned and filed with the person performing the duties of City Secretary within thirty (30) days after the filing of the affidavit herein before provided for. The person performing the duties of City Secretary shall certify said petitions within fifteen (15) days of receipt and present such certified petitions to the City Commission at the next regular City Commission meeting. If the officer whose removal is sought does not resign within five (5) calendar days after such notice is given, then it shall become the duty of the City Commission to order an election and fix a date for holding such recall election, the date of which election shall be in accordance with the Texas Election Code Annotated.

(7) Failure of city commission to call an election. In case all of the requirements of this Charter shall have been met and the City Commission shall fail or refuse to receive the recall petition, or to order such recall election, or to discharge any other duties imposed upon said City

EXHIBIT B (Page 3 of 4): Kingsville City Charter (excerpt of Article II, Section 24, Recall)

Commission by the provisions of this Charter with reference to such recall, then the District Judge of Kleberg County, Texas, or other judge of competent jurisdiction shall discharge any such duties herein provided to be discharged by the person performing the duties of City Secretary or by the City Commission.

(8) **Ballots in recall election.** Ballots used at recall elections shall conform to the following requirements:

(a) With respect to each person whose removal is sought, the question shall be submitted. "Shall (Name of Person) be removed from the office of (Name of Office) by recall?"

(b) Immediately below each such question there shall be printed the two following propositions, one above the other, in order indicated:

"{ } Yes"

"{ } No"

(9) **Result of recall election.** If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, he or she shall continue in office for the remainder of his or her unexpired term, subject to recall as before. If a majority of the votes cast at such an election be for the recall of the person named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office.

If, in such recall election, there shall, as a result of such election, remain one or more such elective officer's who is not recalled, then such officer or officers not recalled shall discharge all the duties incumbent upon the governing authorities of said city until the vacancy or vacancies created at such recall elections are filled by an election for that purpose, as hereinafter provided for, but if in any proposed recall election it is proposed and submitted to recall all elective officers, then there shall be placed on said ballots under the question of recall, the names of candidates proposed to fill the vacancies proposed to be created by such election, but the names of such officers proposed to be recalled shall not appear on the ballot as candidates.

If at any recall election it is not proposed and submitted to recall all of the elective officers, but only one or more, fewer than all, and such election shall result in favor of the recall of one or more of such officers, proposed to be recalled, then it shall be the duty of such officer or officers not recalled and constituting the governing authority of the city, within five (5) days after such election is held, to meet, canvass the returns, declare the result of the election and on the same day order an election to fill such vacancy or vacancies, which such replacement election shall be in accordance with the Texas Election Code Annotated.

EXHIBIT B (Page 4 of 4): Kingsville City Charter (excerpt of Article II, Section 24, Recall)

In no instance shall an officer removed from office by recall election succeed himself or herself, nor shall such officer's name appear on a ballot for elective office of the City within a period of two (2) years following the date of the election at which such officer was removed from office.

(Amended by electorate, 5-13-06)

DRAFT

received
5-6-2025

2:23 P.M.
TD

AFFIDAVIT

STATE OF TEXAS

COUNTY OF KLEBERG

I, Selina A. Tijerina being first duly sworn, on oath depose and say that the statements made therein are true and correct to the best of my knowledge. I demand the question of removing and to be submitted to a vote of the qualified voters of the City of Kingsville:

1. Norma Nelda Alvarez, from the office of City Commissioner, Place 2
2. Hector Hinojosa, from the office of City Commissioner, Place 3
3. Leo Alarcon, from the office of City Commissioner, Place 4

The charges and specifications upon which this demand for removal is predicated are as follows:

- Unprofessional conduct/behavior of a City Commissioner
- Neglect of fiscal responsibilities
- Targeting personnel
- Neglect of City Government policies and procedures

DATED this the 6 day of May, 2025

Selina A. Tijerina

Signature of Affiant

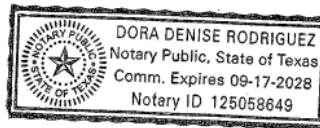
SWORN to subscribed before me, this 6th day May, 2025

Dora Denise Rodriguez

NOTARY PUBLIC

My Commission Expires:

9-17-28



CITY OF KINGSVILLE

P.O. BOX 1458 – KINGSVILLE, TX 78364



May 6, 2025

Hector Hinojosa
1318 Christy
Kingsville, TX 78363

RE: Receipt of Affidavit for Recall

Dear Commissioner Hinojosa,

As per the City of Kingsville, TX, City Charter Article II, Section 24(3), I am writing to inform you that the City of Kingsville has received an affidavit today, May 6, 2025, for the recall of Norma Nelda Alvarez, City Commissioner, Place 2; Hector Hinojosa, City Commissioner, Place 3; and Leo Alarcon, City Commissioner, Place 4 under the grounds of Unprofessional conduct/behavior of a City Commissioner; Neglect of fiscal responsibilities; Targeting personnel; and Neglect of Government policies and procedures.

If you should have any questions, please contact my office.

Sincerely,

Mary Valenzuela
Mary Valenzuela
City Secretary

EXHIBIT E (Page 1 of 1): Petitioner(s) Recall Petition: One page excerpt (dated June 6, 2025)

Name of Circulator Edna Lopez
 Page 48 of 50

COPY

RECALL PETITION

TO: Kingsville City Commission via City Secretary
 (Official's name with whom petition forms are to be filed)

We, the undersigned qualified voters of the City of Kingsville, Texas, hereby demand the question of removing Norma Nelda Alvarez, City Commissioner, Place 2; Hector Hinojosa, City Commissioner, Place 3; Leo Alarcon, City Commissioner, Place 4 from the office of City Commission be submitted to a vote of the qualified voters of the city. The charges and specifications upon which this demand for removal is predicated are as follows: Unprofessional conduct/behavior of a City Commissioner; Neglect of fiscal responsibilities; Targeting personnel; and Neglect of City Government policies and procedures.

| Voter Signature | Printed Name | Address, including County | Voter Registration No. | Date of Birth | Date of Signing |
|-------------------------------|-------------------------------|--------------------------------------|------------------------|----------------|------------------|
| <u>Beatrice Garcia</u> | <u>Beatrice Garcia</u> | <u>Kingsville Kleberg County</u> | | <u>-74</u> | <u>5-26-25</u> |
| <u>Beatrice Garcia</u> | <u>Beatrice Garcia</u> | <u>407 W. Ave. C</u> | | | |
| <u>Roy Garcia</u> | <u>Roy Garcia</u> | <u>810 E. Ave. C</u> | | <u>.54</u> | <u>5-26-25</u> |
| <u>Kristal Lopez</u> | <u>Kristal Lopez</u> | <u>1005 W. Corral Kleberg</u> | | <u>.82</u> | <u>5-26-25</u> |
| <u>Abnzo Lopez</u> | <u>Abnzo Lopez</u> | <u>1725 S. 18th Kingsville</u> | | <u>1/19/99</u> | <u>5/26/2025</u> |
| <u>Laura T. Garcia</u> | <u>Laura T. Garcia</u> | <u>103 W. Sage Rd Kingsville</u> | | <u>-1915</u> | <u>5/27/2025</u> |
| <u>Lisa Hernandez</u> | <u>Lisa Hernandez</u> | <u>103 W. Sage Rd Kingsville</u> | | <u>.73</u> | <u>5-27-25</u> |
| <u>Stephanie E. Rodriguez</u> | <u>Stephanie E. Rodriguez</u> | <u>1214 S. Circle Dr Kingsville</u> | | <u>-74</u> | <u>5-27-25</u> |
| <u>David Lopez</u> | <u>David Lopez</u> | <u>96 W. Ave. C Kingsville</u> | | <u>-99</u> | <u>5/27/25</u> |
| <u>David Lopez</u> | <u>David Lopez</u> | <u>94 W. Ave. C Kingsville</u> | | <u>.54</u> | <u>5/07/25</u> |
| <u>David Lopez</u> | <u>David Lopez</u> | <u>1000 W. Corral Ave Kingsville</u> | | <u>1/2000</u> | <u>5/27/25</u> |

Petition provided to Sollina A. Tilleria on this 7 day of May, 2025, by Mary Valenzuela, City Secretary of the City of Kingsville, TX.

Mary Valenzuela
 Signature of City Secretary

CERTIFICATION OF CIRCULATOR

State of Texas, County of Kleberg

Edna Lopez being first duly sworn, on oath depose and say that the statements made herein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person whose name it purports to be.

Sworn and subscribed to before me on this the 6 day of June, 2025.

Edna Lopez Signature of Circulator
Edna Lopez Printed Name of Circulator
06/06/25 Date

Notary Public in and for Kleberg County, Texas
 before me, the undersigned, on this the 6th day of June, 2025, personally appeared

Gonzalo Perez Ruiz Date 6-6-25
3-18-29 Notary Expiration Date

Gonzalo Perez Ruiz
 NOTARY PUBLIC
 STATE OF TEXAS
 ID: 135231262
 My Com. Exp: 03/18/2029

SPANISH VERSION OF PETITION ON BACKSIDE

RELEASED UNDER OPEN RECORDS

EXHIBIT F (Page 1 of 1): City Secretary’s Comments, City Commission Meeting (June 23, 2025), excerpt from City Agenda Packet for June 23, 2025 City Commission meeting.

**City of Kingsville
City Secretary’s Office**

TO: City Commission
CC: Charlie Sosa, Interim City Manager; Courtney Alvarez, City Attorney
FROM: Mary Valenzuela, City Secretary *MV*
DATE: June 23, 2025
SUBJECT: Certification of Petitions for Recall

On June 6, 2025, the Office of City Secretary received recall petitions seeking the removal of City Commissioners Alvarez, Alarcon, and Hinojosa from the office of City Commissioner. After receiving the petitions, the signatures were reviewed for certification. Of the 330 signatures submitted, a total of 292 signatures were certified, and 38 signatures were not.

The City of Kingsville Charter Article II, Section 24 (4) provides that petitions shall be signed by qualified voters of the City equal in number to at least twenty percent (20%) of the number of qualified voters voting in the most recent city election. The last City Election was held on May 4, 2024. A total of 1,412 votes were cast in that election as reflected in Resolution #2024-94 that was approved by the City Commission on May 13, 2024. Twenty percent of 1,412 votes is 282.4, which is the number of certified signatures needed to initiate a recall election. Accordingly, the signatures certified on the recall petitions exceed the number of signatures required by the Charter for a recall election.

The City of Kingsville Charter Article II, Section 24 (6) states “If the officer whose removal is sought does not resign within five (5) calendar days after such notice is given then it shall become the duty of the City Commission to order an election and fix a date for holding such recall election, the date of which election shall be in accordance with the Texas Election Code Annotated.” Based on the Charter language and the fact that a sufficient number of signatures were certified for a recall election, you are hereby notified that you have five (5) calendar days from the date of this notice to notify me via email whether or not you intend to resign as a Kingsville City Commissioner. If you either choose not to resign or you do not notify me of your intent to resign by June 28, 2025, then an agenda item to order a recall election and fix a date for holding such election will be presented to the City Commission at the next City Commission Meeting.

