

CL-24-3647-F

CITY OF DONNA, TEXAS; MAYOR
DAVID MORENO; and ROBERT J.
SALINAS
Petitioners

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IN THE COUNTY COURT AT LAW

NO. 6

HIDALGO COUNTY, TEXAS

VS

ERNESTO LUGO, JR. and OSCAR
GONZALES
Respondents

EX PARTE TEMPORARY RESTRAINING ORDER

On this day, the Court considered CITY OF DONNA, TEXAS; MAYOR DAVID MORENO; and ROBERT J. SALINAS's (the "Petitioners"), "Original Petitioner with Application for Temporary Relief (Ex Parte Temporary Restraining Order, Injunction, & Mandamus)."

The Court, having reviewed the pleadings and evidence presented, finds that immediate and irreparable injury, loss, or damage will result to the Petitioners before notice can be served upon City Council members ERNESTO LUGO, JR. and OSCAR GONZALES (the "Respondents") and a hearing can be had on the Petitioners' requests for temporary relief.

It appears from specific facts shown in the Petitioners' application for temporary relief that:

1. Respondents, as members of the City Council, have engaged in unlawful informal deliberations in violation of the Texas Open Meetings Act (Tex. Gov't Code §§ 551.041 and 551.043).
2. Respondents intend to formalize decisions made during these unlawful deliberations at the upcoming City Council meeting scheduled for August 26, 2024 at 12:15pm, including but not limited to, actions concerning the termination of the City Manager and the City Attorney's contracts with the City and the EDC.
3. If Respondents are allowed to vote at the upcoming special meeting on the very matters that are the subject of their TOMA violations, it would undermine the integrity of the investigation and exacerbate the harm to the City's governance. Given that they may ultimately be required to vacate their seats if found guilty of malfeasance, it would be counter-productive and legally unsound to permit them to vote on these critical matters before the investigation is completed. Allowing them to proceed would only increase the risk of further legal complications and destabilize the City's administration at a time when transparency and adherence to proper procedures are paramount. Moreover, the City's Charter states, "The City shall have all the powers granted to cities by the Constitution and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers." Among these general

and implied powers is the power to, “sue and be sued” and to, “...cooperate with the government of the State of Texas [such as the local judiciary] to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants[.]” Without temporary orders, the City's ability to maintain transparency and uphold the integrity of its governance processes will be irreparably damaged, undermining public trust and destabilizing the lawful administration of City affairs.

4. Petitioner Mayor David Moreno will suffer immediate and irreparable harm by being unable to fulfill his duties as presiding officer and voting member of the City Council if Respondents proceed to formalize decisions at the upcoming meeting that were discussed unlawfully. This will undermine the Mayor’s ability to ensure that the City’s actions are compliant with the law, jeopardizing his ability to protect the City's governance integrity and uphold transparency.

5. Petitioner Robert J. Salinas (City Attorney) will suffer immediate and irreparable harm through the unlawful termination of his contracts with both the City and the EDC. These terminations, resulting from unlawful deliberations, violate his contractual rights, damage his professional standing, and inflict harm that cannot be adequately remedied through legal recourse alone.

Accordingly, the Court ORDERS as follows:

6. Respondents are temporarily enjoined from voting on any matters at the City Council special meeting scheduled for August 26, 2024 at 12:15pm including but not limited to, the firing of the City Manager, the appointment of an interim City Manager, the termination of Petitioner SALINAS's contracts with the City and the EDC, and the appointment of a new City Attorney and EDC Attorney.

7. In the alternative, if Respondents are not served with this order or the accompanying pleadings in time to enjoin them from voting on any matters at said special meeting, the Court ORDERS that any affirmative actions taken by Respondents at said special meeting are hereby voided or reversed, pending further orders of the Court.

8. This Temporary Restraining Order shall expire by its terms within fourteen (14) days of issuance, unless extended in accordance with Tex. R. Civ. P. 680.

9. A hearing on Petitioners’ request for a temporary injunction is set for ~~September 9~~ September 9 /2024, at 9 :00 (am ~~XXX~~) at which time the Court will hear and determine whether this Temporary Restraining Order should be made a temporary injunction pending final resolution of this cause of action.

10. This Temporary Restraining Order shall not become effective unless and until Petitioners file with the Clerk of the Court a bond in the sum of \$ 500.00 (cash | surety) conditioned as required by law, and approved by the Clerk of the Court, to secure payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

11. The Clerk of the Court is directed to forthwith issue notice of this Temporary Restraining Order to each of the Respondents and set the hearing on the temporary injunction as soon as possible.

SIGNED on this 26th day of August 2024 at 9 :50 am ~~pm~~



JUDGE PRESIDING

Received from the Court

On 8/26/2024 9:56:34 am

Initials: NF