

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-13-00087-CV**

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**In re Donald Ray Lee, Latricia Doyal, Paulette Savage, and Jonathan Chase**

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**ORIGINAL PROCEEDING FROM MCCULLOCH COUNTY**

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**DISSENTING OPINION**

I respectfully dissent. The majority concludes that “the language of section 9.04 is ambiguous, at best, concerning what review, if any, the Secretary can perform with regard to the sufficiency of the petition beyond verifying the number of signatures of qualified voters.” Given the majority’s conclusion of ambiguity, I am hard pressed to conclude that the Secretary or the members of the City Council failed to perform a ministerial act that is subject to mandamus by this Court under the confines of our standard of review. *See Walker v. Packer*, 827 S.W.2d 833, 839 (1992) (mandamus available to compel a public official to perform ministerial act); *Anderson v. City of Seven Points*, 806 S.W.2d 791, 793 (Tex. 1991) (stating that “[a]ct is ministerial when the law clearly spells out the duty to be performed by the official with sufficient specificity that nothing is left to the exercise of discretion”). I would accordingly deny the petition.

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Melissa Goodwin, Justice

Before Chief Justice Jones, Justices Goodwin and Field

Filed: February 28, 2013