



250 Massachusetts Ave NW, Suite 400 | Washington, DC 20001

September 23, 2026

VIA EMAIL

Eric Wang
Lex Politica
611 Pennsylvania Ave SE #353
Washington, D.C. 20003
ewang@lexpolitica.com

Re: Response to Cease and Desist Demand Regarding Advertisement about Tano Tijerina's Position on Data Centers

Dear Mr. Wang:

We write as counsel to DCCC and Texans for Henry Cuellar in response to the cease-and-desist letter you sent to our clients on September 23, 2026. Your letter takes issue with an advertisement titled "Good Neighbor" (the "Ad"), which you allege makes "blatantly false and defamatory claims about Mr. Tano Tijerina's association with, and position on, data centers." Your letter demands a retraction, pursuant to Texas Civil Practices and Remedies Code section 73.055. **There is no basis for this demand: the statements in the advertisement are not defamatory.**

To establish a claim for defamation, a plaintiff must show (1) "the publication of a false statement of fact to a third party"; (2) that the false statement was "defamatory concerning the plaintiff"; (3) the requisite degree of fault on the part of the publisher (here, actual malice, given that Mr. Tijerina is a public figure); and (4) damages.¹ Texas courts have explained that "[t]o qualify as defamatory, a statement should be derogatory, degrading, somewhat shocking, and contain elements of disgrace," and that "a communication that is merely unflattering, abusive, annoying, irksome, or embarrassing, or that only hurts the plaintiff's feelings, is not actionable."² A statement of opinion cannot be defamatory, and truth is an absolute defense to a defamation claim.³

The first issue addressed in your letter is the Ad's claim that "Tano Tijerina wants data centers to move in next door. He doesn't care if they're bad neighbors, taking our water and raising our electricity prices." As a threshold matter, this claim cannot be defamatory because it is a statement of opinion. Claims about what a politician "wants" or "care[s]" about are inherently opinions. They

¹ *In re Lipsky*, 460 S.W.3d 579, 593 (Tex. 2015).

² *Better Bus. Bureau of Metro. Houston, Inc. v. John Moore Servs., Inc.*, 441 S.W.3d 345, 356 (Tex. App. 2013).

³ *Lilith Fund for Reprod. Equity v. Dickson*, 662 S.W.3d 355, 363 (Tex. 2023) (noting that even "statements that are verifiably false are not legally defamatory if the context of those statements discloses that they reflect an opinion"); *Randall's Food Markets, Inc. v. Johnson*, 891 S.W.2d 640, 646 (Tex. 1995) ("Truth is a complete defense to defamation.").

cannot be false, and reasonable viewers of a political ad do not understand such claims to be indisputable statements of fact.⁴ Additionally, the opinion conveyed by this statement is not unfounded: the Issues page on Mr. Tijerina's own campaign website says Mr. Tijerina wants to "fight to...[p]osition South Texas as a leader in AI, tech, and logistics."⁵ He has even defended data centers, claiming they are "getting a lot better" in terms of water use and implied that anti-data center sentiment is not being driven by legitimate public concerns about natural resources, but is instead part of an agenda being "push[ed]" by China.⁶ The fact that Mr. Tijerina has also said that we should "[p]rotect our water, land, and rural communities from data centers and developments that take more than they give" does not render the statement in our clients' Ad false or defamatory. Mr. Tijerina is clear that he proudly wants to bring data centers to South Texas. Further, he claims he wants to protect South Texas from data centers "tak[ing] more than they can give." That may be, but it does not make false our clients' statement that Mr. Tijerina wants to "data centers to move in next door. He doesn't care if they're bad neighbors, taking our water and raising our electricity prices." This line reflects our clients' opinion about what Mr. Tijerina's record, statements, and conduct reflect. In the free marketplace of ideas, our clients are entitled to express their opinion that Mr. Tijerina is not adequately concerned about data centers taking water from South Texans and raising electricity prices, and Mr. Tijerina is entitled to insist that he does care.⁷ It is up to the voters to decide who to believe.

Second, your letter objects to the Ad's claim that "Tano Tijerina's family planned to build a data center here in South Texas." This statement cannot be defamatory because it is straightforwardly true. As your letter acknowledges, this claim refers to a development project called Talise, a project

⁴ *O'Rourke v. Warren*, 673 S.W.3d 671 (Tex. App. 2023) (challenged statements were non-actionable opinion because the court could locate no authority "holding that a person can assert a 'verifiable fact' for purposes of a defamation claim when the context of those statements makes clear that the 'fact' is based on another subjective opinion of the speaker" and noting that "[t]he fact that these opinions arose during the course of a political campaign...only further cautions against interpreting them as anything other than non-defamatory advocacy by [the candidate] in support of his political aspirations"); *Lilith Fund*, 662 S.W.3d at 368 (holding, in the context of a heated political debate in which an anti-abortion group referred to pro-abortion groups as "criminal organizations" that "[a] reasonable person, equipped with the national, historical, and temporal context, and informed by the overall exhortative nature of his posts, could not understand [the defendant] as conveying false information about the plaintiffs' underlying conduct, as opposed to his opinion about the legality and morality of that conduct"). See also *Dallas Morning News, Inc. v. Tatum*, 554 S.W.3d 614, 639 (Tex. 2018) ("Statements that are not verifiable as false cannot form the basis of a defamation claim...And even when a statement is verifiable as false, it does not give rise to liability if the 'entire context in which it was made' discloses that it is merely an opinion masquerading as fact.").

⁵ *Tano Tijerina On the Issues*, TANO TIJERINA FOR CONGRESS, <https://www.tanoforcongress.com/issuesaccessed> (last accessed Sept. 23, 2026).

⁶ Tano Tijerina on Data Centers at 0:20 & 0:59, YOUTUBE, https://www.youtube.com/watch?v=yV2UWYH_YQQ&t=2s.

⁷ See *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring) ("If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence."); *O'Rourke*, 673 S.W.3d at 683 (noting that "a candidate's speech concerning political issues made during the course of a campaign for public office requires the 'fullest and most urgent application' of the First Amendment" (citing *Arizona Free Enter. Club's Freedom Club PAC v. Bennett*, 564 U.S. 721, 734 (2011))).

of the Walker family, who are related to Mr. Tijerina through marriage.⁸ There is no doubt that early plans for the development included a data center. At a May 26, 2026, meeting of the Webb County Commissioners Court, David Earl of Legacy Municipal Management District outlined the plans for the Talise development buildout. He explained that the development would include “3,500 single-family homes, 5,000 multi-family units, 34.4 million square feet of industrial, 20 million square feet of commercial, and 908-acre data center and high yield, high tax yield profit centers for tax base.”⁹ Earl later walked back his statement that the development would include a data center, emphasizing that the developers ultimately chose to build an airport on the site.¹⁰ However, Mr. Tijerina has himself acknowledged that data centers were part of the original plan. At a campaign event this summer, Mr. Tijerina addressed the claims about the Talise development (which he referred to as “my wife’s family’s ranch”) and explained that “they said it many years ago in the beginning that they were going to put [a data center].”¹¹ The fact that these plans did not come to fruition does not make it any less true that the development was “planned” by Mr. Tijerina’s family.

Finally, your letter takes issue with a video clip in the Ad in which Mr. Tijerina states that “Data centers are extremely good.” Your letter objects to this clip as “misleading,” because, you claim, Mr. Tijerina, “does not support giving the developers of data centers *carte blanche* to do whatever they want.” However, that is not what the Ad says. It simply presents a clip of Mr. Tijerina in his own words. By definition, this cannot be defamatory because it is not a false statement about Mr. Tijerina.¹² The clip merely captures something Mr. Tijerina actually said. The fact that the clip used in the ad omits the words “with regulation” does not render it false, defamatory, or even misleading. Any reasonable viewer would understand that the clip, which lasts less than two seconds, exists in a broader context. That context includes the fact that Americans understand that building projects and businesses operate subject to some degree of government regulation. Our client truthfully conveyed that Mr. Tijerina believes data centers are extremely good, whatever specific (unidentified) regulation Mr. Tijerina believes ought exist.

Texas law and the First Amendment strongly protect our clients’ right to speak freely in this area. The Ad is a communication made in connection with a matter of public concern, and is therefore protected by the Texas Citizens Participation Act.¹³ Among other things, as we have explained above, the Ad does not contain any false and defamatory statement of fact. If there is additional reasonably available information regarding the supposed falsity of the allegedly defamatory

⁸ See Melina Charur, *Inside \$7B ‘Talise’ project: A family’s legacy to bring major impact on area north of Laredo*, LAREDO MORNING TIMES (May 27, 2024), <https://www.lmtonline.com/local/article/talise-laredo-webb-family-legacy-leaders-react-19477490.php>. This article notes that “Webb County Judge Tano Tijerina spoke as part of the Walker family and as county judge.” *Id.* (emphasis added).

⁹ Webb County Commissioners Court Meeting at 01:12:23 (May 26, 2026), <https://webbcountytx.new.swagit.com/videos/389134?ts=4360.115>.

¹⁰ Maria Ruiz, *Talise Developers Deny Data Center Plans, Clarify Airport Proposals*, LAREDO MORNING TIMES (June 13, 2026), <https://www.lmtonline.com/local/article/talise-developers-no-data-center-planned-airpark-22293779.php>.

¹¹ Tano Tijerina on Data Centers at 2:20, YOUTUBE, https://www.youtube.com/watch?v=yV2UWYH_YQQ&t=127s.

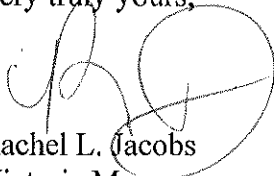
¹² *In re Lipsky*, 460 S.W.3d 579, 593 (Tex. 2015).

¹³ See Tex. Civ. Prac. & Rem. Code §§ 27.001(1), (7).

statement that you would like our client to review, then please provide such information no later than the 30th day after the date of this request. *See* Texas Civil Practices and Remedies Code section 73.056. Otherwise, if you bring a lawsuit alleging defamation, we will be entitled to move for an order dismissing your lawsuit at the outset for violating that section, and we will be entitled to immediately appeal if that motion is denied.¹⁴ When we prevail, we will also be entitled to recover our attorneys' fees.¹⁵

We trust that this will be the end of the matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'RJ', enclosed within a large, hand-drawn circle.

Rachel L. Jacobs
Victoria Maras

Counsel to DCCC and Texans for Henry Cuellar

¹⁴ *Id.* §§ 27.003, 27.008.

¹⁵ *Id.* § 27.009(1).