S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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May 16, 2006

Opinion No. 06-091

Newspaper of General Circulation: Hamilton County Herald

QUESTION

Whether the Hamilton County Herald is a "newspaper" or a "newspaper of general circulation" for the purpose of publication of official notices.

OPINION

The Hamilton County Herald is a "newspaper" or a "newspaper of general circulation" for the purpose of publication of official notices.

ANALYSIS

With the exception of a definition in the Election Code, Tenn. Code Ann. §§ 2-1-101, *et seq*., the terms "newspaper" and "newspaper of general circulation" are not defined in state statutes that require publication of official notices in a "newspaper" or "newspaper of general circulation." Op. Tenn. Att'y Gen. 00-160 (October 17, 2000). The Election Code, however, does define the term "newspaper of general circulation" and lists the requirements for meeting that definition. The publication must bear a title or name, be regularly issued at least as frequently as once a week for a definite price, and have a second-class mailing privilege. It must be not less than four pages, be published continuously during the immediately preceding one-year period, and be published for the dissemination of news of general interest. Finally, it must be circulated generally in the political subdivision in which it is published and in which notice is to be given. Tenn. Code Ann. § 2-1-104(a)(13).

With respect to the statutes in which the terms "newspaper" or "newspaper of general circulation" are not defined, three criteria have been established in order for a publication to satisfy the requirements of those various statutes. First, the publication should be available in all parts of the county. Second, it should be published at least weekly. Third, it should contain news of general interest to the public. Op. Tenn. Att'y Gen. 04-064 (April 15, 2004).

These criteria are supported by the case of *Cook v. McCullough*, 1989 WL 155926 (Tenn. App. December 29, 1989); *p.t.a. denied* (1990). In that case, the Court of Appeals determined that

The Nashville Record was a proper newspaper for purposes of Tenn. Code Ann. § 67-5-2502. The Court stated:

> The Nashville Record is a "newspaper" within the sense of the applicable statute. It is published weekly. It is intended for circulation among the general public. It contains matters of general interest. It is in the form of a newspaper.

Cook v. McCullough, 1989 WL 155926 at 8.

With your opinion request, you included sample issues of the Hamilton County Herald and additional information about its operations. We have looked at the issues of the Hamilton County Herald ("issue" or "the paper"), which you provided. Based on these issues, this Office notes that the Hamilton County Herald is in a newspaper format of sixteen to twenty (16 to 20) pages, is published in Chattanooga and is issued weekly, at a single copy price of fifty cents (50¢) or at an annual subscription price of fifteen dollars ($15.00). The issue does not state the publication's founding date but states on its masthead, "over 93 years of service."

The Hamilton County Herald contains several types of information. In the April 7 issue, seven (7) pages of the issue are devoted to public notices, and two pages are devoted to deed records. The issue's front page notes that the paper contains the following sections: "Business Info, Legal Notices, Pettus Read (column regarding Tennessee agricultural products), I Swear (column re crossword puzzles), and Recipe." The April 7 issue includes stories on state, local and national news. Examples are these headlines: "Supreme Court Holds Shelby County Term Limits Legal, Constitutional," "Comic Book Attempts to Explain Complexities of Public Domain," "Restrictive Land-Use Rules May Cause Housing Prices to Soar," and "As Costs Rise, Saving for College Becomes a 'Grand' Plan." The issue also includes display advertisements. The paper contains, then, news of general interest.

Information on page 3 of the April 7 issue shows that the Hamilton County Herald is distributed to subscribers by mail, using "second class mailing privileges" (second-class postage rate). According to information you provided, the paper has over 1200 subscribers. The paper is also available for single-copy purchase in seventeen (17) Hamilton County locations. Thus, the newspaper is intended for circulation among the general public.

Based on information you provided and on information gleaned from the April 7 issue, this Office has determined that the Hamilton County Herald meets the general and statutory definitions

of “newspaper” and/or “newspaper of general circulation” for purposes of publication of official notices in Hamilton County.

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Requested by:

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