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Opinion No. 06-158

Chattanooga Times Free Press as "newspaper" and/or "newspaper of general circulation"

QUESTION

Whether the *Chattanooga Times Free Press* qualifies as a "newspaper" and/or a "newspaper of general circulation" for purposes of publication of official notices within the following Tennessee counties: Bledsoe, Bradley, Grundy, Marion, McMinn, Meigs, Polk, Rhea and Sequatchie?

OPINION

The *Chattanooga Times Free Press* qualifies as a "newspaper" and/or a "newspaper of general circulation" for the purposes of publication of official notices in all of the counties listed above, with the possible exception of Bledsoe, Meigs and Sequatchie where it may not be available in all parts of the county, as required by law.

ANALYSIS

With the exception of the 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. Op. Tenn. Att'y Gen. 04-064 (April 15, 2004); Op. Tenn. Att'y Gen. 00-160 (October 17, 2000). 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); Op. Tenn. Att'y Gen. 93-19 (March 11, 1993).

These criteria are supported by the case of *Cook v. McCullough*, 1989 WL 155926 (Tenn. Ct. App. December 29, 1989), *p.t.a. denied* (1990). In that case, the Court of Appeals determined that *The Nashville Record* was a newspaper for purposes of publication of tax sale notices pursuant to 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 *7.

We have looked at the September 21, 2006, issue of the *Chattanooga Times Free Press* ("issue"). Based on this issue, this Office notes that the *Chattanooga Times Free Press* is in a newspaper format with seven multi-page sections: front page, Metro, business, sports, life, and two sections of classified advertisements. It is published in Chattanooga and is issued daily, at a single copy price of fifty cents on weekdays and Saturdays and $1.50 on Sundays. It is also available on a pre-paid subscription basis for 13, 26 or 52 weeks. The issue does not state the publication's founding date; but based on the information you provided, it appears that the *Chattanooga Times Free Press* was founded in 1999 as a result of the merger of the *Chattanooga Times* and the *Chattanooga News Free Press*.

The *Chattanooga Times Free Press* contains local, state, national and international news. Examples from the September 21 issue are these front page headlines: "Bryson's first TV ad critical of Bredesen," "A tribute to a warrior," "House OKs voter ID legislation," "Davis pushes bill in effort to reduce abortions," "Young voters focus on pocketbook issues," and "Astronaut's widow understands concern about shuttle return." The issue also included display advertisements. The paper contains, then, matters of interest to the general public.

Information on page 2 of the September 21 issue shows that the *Chattanooga Times Free Press* is distributed to subscribers through home delivery and by mail at the second-class postage rate. Based on information provided to this Office, the paper is also available for single-copy purchase in newspaper racks and in stores at multiple locations in the following counties: Bradley, Grundy, Marion, McMinn, Polk, and Rhea. Thus, the newspaper is intended for circulation among the general public, and based upon multiple single-copy locations, should be available throughout the counties.

The limited availability of the *Chattanooga Times Free Press* in Bledsoe, Meigs and Sequatchie counties may mean that the newspaper may not be available throughout the county, as required by statute and case law. In each of these counties, the paper is available for single-copy purchase in only one city. Bledsoe County has twelve single-copy purchase locations, all in Pikeville. Bledsoe County contains 406 square miles and has a population of 12,478.[1] Pikeville's population is 1,781. Thus, Bledsoe County may have less than county-wide availability. Meigs County has ten single-copy purchase locations, all in Decatur. Meigs County has a population of

[1] All population and square mileage figures used in this opinion come from the Tennessee Blue Book. *See* http://Tennessee.gov/sos/bluebook.

11,310; Decatur has a population of 1,395. Because, however, Meigs County has few cities and is one of the smaller counties, as it only contains 195 square miles, it may be that the paper's current single-copy purchase locations are sufficient. Finally, Sequatchie County has all of its single-copy purchase locations in Dunlap. Sequatchie County contains 266 square miles and has a population of 11,787. Dunlap's population is 4,173. Like Meigs County, Sequatchie County has few cities. Thus, the paper's current single-purchase locations may be sufficient since it does have twenty-eight such locations in the city that is most centrally located in Sequatchie County. In sum, the Office concludes that the question of whether the *Chattanooga Times Free Press* is available throughout these three counties for the purpose of publishing official notices is debatable.

Based on information you provided and on information gleaned from the September 21, 2006, issue and other sources, this Office has determined that the *Chattanooga Times Free Press* meets the general and statutory definitions of "newspaper" and/or "newspaper of general circulation" for purposes of official notices in all counties listed in your question, with the possible exceptions of Bledsoe, Meigs and Sequatchie.

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