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Opinion No. 06-166

Knoxville Journal as "newspaper" and/or "newspaper of general circulation"

QUESTION

Whether the *Knoxville Journal* qualifies as a "newspaper" and/or a "newspaper of general circulation" for purposes of publication of official notices within the following Tennessee counties: Anderson, Blount, Campbell, Grainger, Jefferson, Knox, Roane, Sevier, and Union?

OPINION

The *Knoxville Journal* 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 Grainger, Jefferson, and Union 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 August 17 - 23, 2006, issue of the *Knoxville Journal* ("issue"). Based on this issue, we note that the *Knoxville Journal* is in a newspaper format with five multi-page sections: front section, section B (sports), section C (news & classifieds), and two advertising inserts. It is published in Knoxville on Thursdays at a single copy price of fifty cents. It is also available on a subscription basis for six months or one year. The issue indicates that the *Knoxville Journal* was founded in 1839, and it bills itself as "Knoxville's oldest newspaper."

The *Knoxville Journal* contains local, state, and national news. Examples from the August 17 - 23 issue are these headlines: "First day of school celebrated," "Operation paperback serving soldiers overseas," "Shelby Co. DA asked to investigate possible voter fraud," "Covenant Health marathon set for April 1, 2007," and "Questions abound all around the SEC East." The issue also included display advertisements. The paper contains, then, matters of interest to the general public.

Information on the front page shows that the *Knoxville Journal* is distributed to subscribers through home delivery and by mail at the second-class or periodicals 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: Anderson, Blount, Campbell, Grainger, Jefferson, Knox, Roane, Sevier, and Union. Thus, the newspaper is intended for circulation among the general public, and based upon multiple single-copy locations, should be available throughout several counties.

The limited availability of the *Knoxville Journal* in Grainger, Jefferson, and Union counties may mean that the newspaper may not be available throughout the county, as required by statute and case law. In Grainger County, the paper is available for single-copy purchase in only seven locations in the municipalities of Blaine (population 1,585) and Rutledge (population 1,187).[1] Grainger County has a population of 21,109 and covers 280 square miles. The paper is available at fourteen locations in Jefferson County, but the request indicates these locations are from New Market (population 1,234) to Jefferson City (population 7,760). Jefferson County has 274 square miles and a population of 45,801. We question whether there is county-wide availability, as the *Knoxville Journal* does not appear to be available for single-copy purchase in the county seat of Dandridge (population 2,078) or the municipality of White Pine (population 1,997). Union County also presents a question, as it has 224 square miles and a population of 18,541. The request states that the *Knoxville Journal* is available for single-copy purchase at ten locations "along highway 33

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

to Maynardville." Maynardville (population 1,782) is the county seat, but we question whether there is county-wide availability, as Union County also includes the municipalities of Luttrell (population 1,174) and Plainview (population 1,866). In sum, we conclude that the issue of whether the *Knoxville Journal* 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 August 17 - 23, 2006, issue and other sources, it is our opinion that the *Knoxville Journal* 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 exception of Grainger, Jefferson, and Union.

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