

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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July 29, 2009

Opinion No. 09-138

The Monroe County Buzz as a Newspaper of General Circulation

QUESTION

Does *The Monroe County Buzz* qualify as a “newspaper” and/or “newspaper of general circulation” for the purpose of publishing official notices?

OPINION

The Monroe County Buzz qualifies as a “newspaper” and/or “newspaper of general circulation” for the purposes of publication of most official notices, including legal notices. It does not qualify as a “newspaper” and/or “newspaper of general circulation” for the purpose of publishing notices required by the Election Code.

ANALYSIS

This Office was provided with factual information about *The Monroe County Buzz* (“*The Buzz*”) and with twenty sample issues to review. *The Buzz* is published daily (with the Saturday and Sunday versions in one issue) in a newspaper format. *The Buzz* costs thirty-five cents (35¢) per issue and is available at local eating establishments, businesses, gas stations, and convenience stores throughout Monroe County, including the cities of Madisonville, Vonore, Tellico Plains, and Sweetwater. Paid e-mail subscriptions are also available with an e-mail version of the paper sent out daily. The page length of the paper ranges from eight pages to twenty-four pages, depending on the volume of news on any given day. The majority of the paper contains news of general interest. The sample issues provided to this Office contain various articles and sections, covering local news, local events, obituaries, and sports.¹ Approximately the last three pages of each issue are dedicated to classified advertisements. *The Buzz* also contains advertisements, interspersed within the paper, for various local services and products. *The Buzz* appears to contain over fifty per cent (50%) general interest news and is

¹ For example, the May 2, 2009, issue of *The Buzz* carried articles on, among other things, Tellico Plains High School’s efforts to demonstrate the dangers of drinking and driving, an inmate smuggling meth into the county jail, a local upcoming festival, an overview of national news, the local events for the week, and youth sports information.

widely available in Monroe County,² with a general distribution of approximately 7,000 papers per week to pickup locations and by email.

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.” *See* Op. Tenn. Att’y Gen. 09-65 (April 23, 2009); Op. Tenn. Att’y Gen. 06-091 (May 16, 2006); 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). Because *The Buzz* does not appear to have a second-class mailing privilege, it does not qualify as a “newspaper of general circulation” under the Election Code. *See* Op. Tenn. Att’y Gen. 07-146 (Oct. 19, 2007); Op. Tenn. Att’y Gen. 07-62 (May 7, 2007).

With respect to statutes in which the terms “newspaper” and/or “newspaper of general circulation” are not defined, three criteria have been established in order for a publication to qualify as such. Op. Tenn. Att’y Gen. 07-146 (Oct. 19, 2007); Op. Tenn. Att’y Gen. 07-62 (May 7, 2007); 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. 06-091 (May 16, 2006).

These criteria are supported by *Cook v. McCullough*, 1989 WL 155926 (M.S. Tenn. 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 Tenn. Code Ann. § 67-5-2502. The Court stated: “*The Nashville Record* is a ‘newspaper’ in 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.

Based upon the information supplied to this Office, *The Buzz* meets the criteria laid out in *Cook v. McCullough* and thus may be considered a “newspaper” or “newspaper of general circulation” for the purposes of publication of most official notices, including legal notices. However, because *The Buzz* does not appear to have a second-class mailing privilege, it is not a “newspaper” or “newspaper of general circulation” under the Election Code. *See* Tenn. Code Ann. § 2-1-104(a)(13) (defining “newspaper of general circulation”).

² The U.S. Census Bureau estimated in 2008 that Monroe County has a population of 45,648. Available at <http://quickfacts.census.gov/qfd/states/47/47123.html>.

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