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SPRINGFIELD

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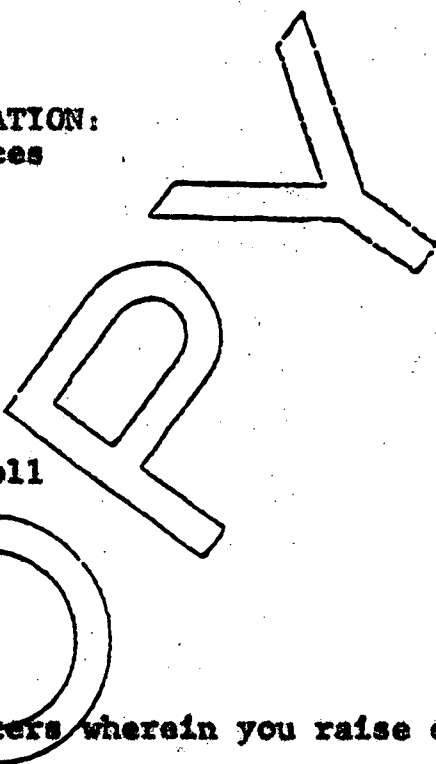
**PUBLIC RECORDS AND INFORMATION:  
Publication of Legal Notices**

Honorable Chris E. Freese  
State's Attorney  
Moultrie County  
Courthouse  
Sullivan, Illinois 61951

Honorable Michael G. Carroll  
State's Attorney  
Douglas County  
Courthouse  
Tuscola, Illinois 61953

Gentlemen:

I have your letters wherein you raise questions concerning the publication of legal notices in the Arthur Graphic Clarion newspaper. Mr. Freese asks whether the Arthur Graphic Clarion is published in Moultrie County and thus a proper medium for the publication of legal notices by units of local government in Moultrie County. Mr. Carroll asks whether, if the Arthur Graphic Clarion is published in Moultrie County, it



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is eligible to publish the legal notices of units of local government in Douglas County. For the reasons hereinafter stated, it is my opinion that the Arthur Graphic Clarion is published in Moultrie County and not in Douglas County. The only unit of local government in Douglas County which may publish legal notices in the Arthur Graphic Clarion is the village of Arthur.

Section 5 of "AN ACT to revise the law in relation to notices" (Ill. Rev. Stat. 1979, ch. 100, par. 5) defines the term "newspaper" for the purpose of publishing notice required by law or contract:

"When any notice is required by law or contract to be published in a newspaper (unless otherwise expressly provided in the contract), it shall be intended to be in a secular newspaper of general circulation, published in the city, town or county, or some newspaper specially authorized by law to publish legal notices, in the city, town, or county.  
\* \* \*

The rule with respect to publication of a newspaper in Illinois was stated in the case of People v. Read (1912), 256 Ill. 408, 410, as follows:

" \* \* \*

\* \* \* It is immaterial where the printing is done, but the place of publication of a newspaper is the place where it is first put into circulation, - where it is first issued to be delivered or sent, by mail or otherwise, to its subscribers. \* \* \*

The term "first" is defined in the case of In re Estate of Lalla (1935), 281 Ill. App. 124, 133, as follows:

" \* \* \* 'preceding all others; first in time or a series, position, or rank; earliest in time or succession; foremost in position; in front of,

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or in advance of, all others; foremost in rank,  
importance, or worth.' \* \* \* "

Where a newspaper is circulated in different communities or counties, the one in which it is first circulated is the place of publication. People v. Read (1912), 256 Ill. 408, 410.

It is clear that there is only a single publication of a newspaper, publication occurring at the place where the newspaper is first issued to the public, i.e., where actual distribution of bulk deliveries of the newspaper originates. This conclusion is in accordance with opinion No. S-1050, issued by my predecessor on February 26, 1976. 1976 Ill. Att'y Gen. Op. 96.

In their affidavit, the owners and publishers of the Arthur Graphic Clarion, state that the newspaper is printed in Villa Grove, Douglas County, Illinois. There are 2,250 copies of the newspaper printed weekly with approximately 1,400 being distributed pursuant to paid mail subscriptions, and 683 being distributed pursuant to newsstand sales. The majority of the copies are distributed in Douglas and Moultrie Counties, with both counties receiving approximately the same number of newspapers. Mr. Freese states in his letter that the newspapers are first taken to the Post Office in Moultrie County for mailing to subscribers and then are delivered to newsstands in Moultrie County and Douglas County with the first newsstand deliveries being made in Moultrie County. On the basis of these facts, it

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is clear that the Arthur Graphic Clarion is published in Moultrie County and not in Douglas County.

In regard to the question raised by Mr. Carroll, section 5 of "AN ACT to revise the law in relation to notices" requires that the newspaper be published in the city, town or county giving the notice. Section 2 of "AN ACT requiring certain custodians of public moneys to file and publish statements of the receipts and disbursements thereof" (Ill. Rev. Stat. 1979, ch. 102, par. 6) is to the same effect:

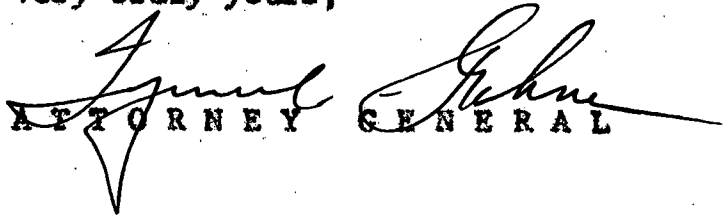
"Such public officer shall also, within 30 days after the expiration of such fiscal year, cause a true, complete and correct copy of such statement to be published one time in a newspaper published in the town, district or municipality in which such public officer holds his office, or, if no newspaper is published in such town, district or municipality, then in a newspaper printed in the English language published in the county in which such public officer resides. \* \* \*

The purpose of limiting publication of notices to newspapers meeting certain standards is to insure that the published material will come to the attention of a substantial number of persons in the area affected. (1976 Ill. Att'y Gen. Op. 96, 98.) There is no restriction in section 5 of "AN ACT to revise the law in relation to notices" which would prevent a unit of local government, such as the village of Arthur, which extends into two or more counties, from publishing a legal notice in any newspaper published within the unit's boundaries.

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On the basis of the above discussion, it is my opinion that the only unit of local government in Douglas County which may publish legal notices in the Arthur Graphic Clarion is the village of Arthur.

Very truly yours,

  
ATTORNEY GENERAL