

December 11, 1973

OPINION LETTER NO. 5  
Answer by letter-Wieler

Honorable Donald E. Lamb  
Prosecuting Attorney  
Reynolds County  
P. O. Box 52  
Centerville, Missouri 63633



Dear Mr. Lamb:

This is in response to your request as to whether or not the Ozark New Era Weekly newspaper is qualified under Section 493.050, RSMo 1969, to publish advertisements and orders of publication required by law to be made and all legal publications affecting the title to real estate in Reynolds County.

Section 493.050 provides:

"All public advertisements and orders of publication required by law to be made and all legal publications affecting the title to real estate, shall be published in some daily, triweekly, semiweekly or weekly newspaper of general circulation in the county where located and which shall have been admitted to the post office as second class matter in the city of publication; shall have been published regularly and consecutively for a period of three years; shall have a list of bona fide subscribers voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time; provided, that when a public notice, required by law, to be published once a week for a given number of weeks, shall be published in a daily, triweekly, semiweekly or weekly newspaper, the notice shall appear once a week, on the same day of each

Honorable Donald E. Lamb

week, and further provided, that every affidavit to proof of publication shall state that the newspaper in which such notice was published has complied with the provisions of this section; provided further, that the duration of consecutive publication herein provided for shall not affect newspapers which have become legal publications prior to the effective date of this section, provided, however, that when any newspaper shall be forced to suspend publication in any time of war, due to the owner or publisher being inducted into the armed forces of the United States, the same may be reinstated within one year after actual hostilities shall have ceased, with all the benefits under the provisions of this section, upon the filing with the secretary of state of notice of intention of said owner or publisher, his widow or legal heirs, to republish said newspaper, setting forth the name of the publication, its volume and number, its frequency of publication, and its readmission to the post office where it was previously entered as second class mail matter, and when it shall have a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time. All laws or parts of laws in conflict with this section except sections 493.070 to 493.120, are hereby repealed."

You have informed us that the Ozark New Era Weekly newspaper has been published regularly and consecutively for a period of more than three years. We have also been told that the paper has a general circulation in Reynolds County and approximately 650 bona fide voluntary subscribers in Reynolds County. However, the newspaper is printed and published in Salem, Missouri, which is in Dent County, and has been admitted by the post office in Salem as second class matter.

In Opinion No. 296 dated June 15, 1971, to the Honorable Robert S. Wiley, Prosecuting Attorney of Stone County (copy enclosed), we held that the phrase "in the county where located" contained in Section 493.053 refers to real estate as mentioned therein and not to the location of the newspaper. This being so, there is nothing further in this statute which would restrict publication of legal publications affecting the title to real estate in a county to a newspaper located and actually published within

Honorable Donald E. Lamb

that county. In our opinion, the fact that the Ozark New Era Weekly newspaper is published in Dent County does not disqualify it from publishing legal publications affecting the title to real estate in Reynolds County under the provisions of Section 493.050.

Further, inasmuch as the phrase "in the county where located" refers to real estate and not to the location of the newspaper, there is nothing in Section 493.050 which would prevent the Ozark New Era Weekly newspaper from publishing public advertisements and orders of publication required by law. In fact, it seems clear from the language of this section that the legislature intended only that public advertisement and orders of publication be circulated in the area affected by said notices. To accomplish this, it is not necessary that the newspaper be actually published within the county.

However, it should be pointed out that certain statutes dealing with public advertisements and orders of publication required by law specifically forbid the publishing of such advertisements in newspapers published outside of the county involved. For example, Section 50.800, RSMo 1969, dealing with county financial statements, specifically requires that the financial statement of each county be published in some newspaper of general circulation published in the county, if there is one. In determining whether or not the Ozark New Era Weekly newspaper is qualified to publish a particular public advertisement or order of publication concerning Reynolds County, reference must be made to the particular statute which requires such publication.

Therefore, it is our view that Section 493.050, RSMo 1969, permits any newspaper to publish all public advertisements and orders of publication required by law in a county and all legal publications affecting title to real estate in a county, even though said newspaper is not actually printed and published in that county. However, the newspaper must be generally circulated in the county affected by the publications and meet the qualifications set forth in Section 493.050, RSMo 1969.

This does not apply to any public advertisement required by a statute to be published in a newspaper located within a particular county, such as Section 50.800, RSMo 1969.

Yours very truly,

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 296  
6-15-71, Wiley