

NEWSPAPERS: Periodicals which do not have a paid circulation do not qualify as newspapers
TOWNSHIPS: under Sections 231.280, RSMo 1959, which
TOWNSHIP ORGANIZATIONS: provides for publication in a newspaper
COUNTIES: of the township financial statement and
PUBLICATION: inventory of township property.
LEGAL PUBLICATION:

OPINION NO. 56
(425, 1966)

March 7, 1967

Honorable Carl D. Gum
Prosecuting Attorney of Cass County
Court House
Harrisonville, Missouri 64701



Dear Mr. Gum:

This is in answer to your request for an opinion of this office concerning the type of publication that constitutes a newspaper insofar as Section 231.280, RSMo 1959, is concerned. That statute provides for publication by township boards of directors in a "newspaper" of certain information regarding the fiscal operation and the physical inventory of townships in counties under township organization.

You inquire whether so-called "advertising papers" which do not have a paid circulation can qualify as newspapers under said Section 231.280. You point out that Section 493.050, RSMo 1959, provides that all public advertisements required by law shall be published in some daily, triweekly, or semiweekly newspaper of general circulation.

Section 231.280, RSMo 1959, reads as follows:

"The township board of directors in all counties under township organization shall keep, or cause to be kept, a full, true and correct record of all moneys received and disbursed on account of roads and bridges and all other receipts and disbursements of every nature in such township, showing in detail from whom and on what account such money was received, and to whom and for what purpose disbursed, together

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with a complete inventory of all tools, road machinery and other property belonging to the township, together with such other information as to the condition of roads and bridges and the needs of same as may be deemed of value, and within thirty days after the end of the fiscal year of said township board of directors, which fiscal year shall begin and end on the same date as the fiscal year of the county in which such township is located, shall cause to be published an itemized statement of such receipts and expenditures, inventory of tools, machinery and other property in some newspaper published in such township, and if there be no newspaper published in the township, then such publication may be made in any newspaper of general circulation within such township published in the county. Such statement shall be made by the township clerk under the direction of the township board, and shall be sworn to by such clerk, and it shall be the duty of the township clerk within thirty days after the end of the fiscal year of said township board to file one copy each of such detailed statement with the chief engineer of the Missouri state highway commission at Jefferson City, and with the county clerk of such county, and the county clerk shall lay the same before the county court at its next regular meeting."

Section 493.050, RSMo 1959, reads as follows:

"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

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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 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."

We enclose copies of the following opinions of the Attorney General: No. 369 to Honorable Peter H. Rea, dated October 8,

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1965; No. 38 to Honorable John F. Hayner, dated September 29, 1961; and No. 18 to Honorable J. W. Colley, dated July 2, 1957.

It is clear from the reasoning in said opinions, under the authority therein cited, that a publication must comply with the requirements of said Section 493.050 in order to be a proper medium for advertising the type of statements set out in said Section 231.280, and to qualify thereunder.

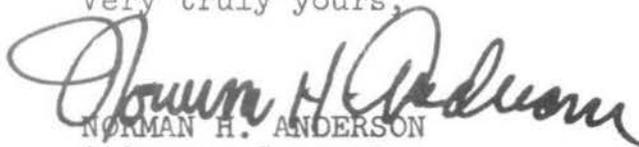
Since the "advertising papers" that you describe, not having a list of paid subscribers, do not qualify as newspapers for the purpose of publishing such public advertisements, it is illegal to use them as such.

CONCLUSION

It is the opinion of this office that periodicals which do not have a paid circulation do not qualify as newspapers under Section 231.280, RSMo 1959, which provides for publication in a newspaper of the township financial statement and inventory of township property.

The foregoing opinion, which I hereby approve, was prepared by my Assistant Donald L. Randolph.

Very truly yours,



NORMAN H. ANDERSON

Attorney General