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PUBLICATIONS:

Local Newspaper Inserted in
Chicago Tribune is a Secular
Newspaper of General Circulation

Honorable John J. Bowman
State's Attorney of DuPage County
207 S. Reber Street
Wheaton, Illinois 60187

Dear Mr. Bowman:

This is in response to your letter wherein you ask whether a newspaper known as "The Trib" qualifies as a secular newspaper of general circulation under section 5 of "AN ACT to revise the law in relation to notices" (Ill. Rev. Stat. 1973, ch. 100, par. 5) and section 1 of "AN ACT concerning the publication of legal notices". (Ill. Rev. Stat. 1973, ch. 100, par. 10.) This newspaper

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is printed in DuPage County and is distributed both by mail and as an insert to the 65,000 copies of the Chicago Tribune which is circulated daily in DuPage County. You add that "The Trib", through its own staff of reporters, reports the local news in DuPage and other counties surrounding Cook County.

Section 5 of "AN ACT to revise the law in relation to notices" (Ill. Rev. Stat. 1973, ch. 100, par. 5) provides in pertinent part:

"§ 5. 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 balance of section 5 of the Act sets out specific requirements as to physical size, news content and publication history which apply if the publication is pursuant to contract. Identical specifications are contained in section 1 of "AN ACT to revise the law in relation to notices" (Ill. Rev. Stat. 1973, ch. 100, par. 10), and apply when the notice is to be published

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pursuant to law. Whether the notice is to be published pursuant to law or contract, the important thing is that in accordance with section 5 of "AN ACT to revise the law in relation to notices" (Ill. Rev. Stat. 1973, ch. 100, par. 5), the publication must be in a secular newspaper of general circulation.

In dealing with the question of what is a "legal newspaper" under section 5 of "AN ACT to revise the law in relation to notices" (Ill. Rev. Stat. 1973, ch. 100, par. 5) and section 1 of "AN ACT concerning the publication of legal notices" (Ill. Rev. Stat. 1973, ch. 100, par. 10), one of my predecessors in opinion No. 207 (1951 Ill. Att'y. Gen. Op. 48) set forth the tests used by the Illinois Supreme Court for determining a secular newspaper of general circulation. The above opinion also contains a collection of cases from Illinois and other jurisdictions which apply these tests to various newspapers.

A secular newspaper of general circulation is determined by the diversity, not the number, of its subscribers and by

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its content of news of general character and interest to the community, even though the newspaper be of particular interest to a particular class of persons and the news be limited in amount. In Eisenberg v. Wabash, 355 Ill. 495, the Illinois Supreme Court stated specifically at page 498:

"All that is required is that it be secular in character, that it be circulated among different classes of readers, and that it dispense information which is of interest to the general public."

This test was affirmed by the Illinois Supreme Court in People ex rel. Toman v. 110 S. Dearborn Street Building Corp., 372 Ill. 459.

Besides being a secular newspaper of general circulation, a newspaper must be published within the locale affected by the legal notice. (People ex rel. Toman v. 110 S. Dearborn Street Building Corp., supra; Ill. Rev. Stat. 1973, ch. 100, par. 5.) The place of publication is the place where the newspaper is first issued to be delivered or sent to its subscribers. It is immaterial where the printing is done. (People v. Read, 256 Ill.408.) In opinion No. 477 (1958 Ill.

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Att'y. Gen. Op. 227) to which you refer in your letter, it was concluded that a newspaper could be published in three separate places, or in other words, there can be multiple publications of the same edition.

According to your description of the DuPage edition of "The Trib", it is a separate newspaper which contains local news of general interest to the residents of DuPage County. It is first issued for circulation in DuPage County when it is distributed to local newspaper agencies for circulation with the Chicago Tribune and when 25 copies of it are mailed at Hinsdale, Illinois. Apparently publication through the mail and with the Chicago Tribune occurs at approximately the same time. It has a circulation of approximately 65,000 throughout DuPage County.

By being distributed with the Chicago Tribune, "The Trib" reaches a diverse number of readers within DuPage County and is not limited to any particular class. Furthermore, it carries news of general character and interest to the community of DuPage County. Therefore, it meets the test of a secular

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newspaper of general circulation as enunciated in Eisenberg v. Wabash, 355 Ill. 495.

Finally, "The Trib" is published in DuPage County within the meaning of People v. Read, 256 Ill. 408. It is first issued for circulation in DuPage County when it is distributed to local newspaper agencies for circulation and when it is mailed at Hinsdale. Since both of these methods of circulation occur in DuPage County, the fact that one may proceed the other in time is immaterial, for either constitutes publication in DuPage County.

Besides meeting the tests for a secular newspaper of general circulation published in DuPage County, "The Trib" fulfills the policy behind requiring legal notices to be published in newspapers. The primary purpose of the printing of legal notices is to give the widest publicity possible.

(Continental National Life Ins. Co. v. Mahoney, 49 S.W. 2d 371 (Ark. 1932); 66 C.J.S. Newspapers §4A.) The purpose of limiting publication to newspapers meeting certain standards is to assure that the published material will come to the

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attention of a substantial number of persons in the area affected. (In re Norwalk Call, 397 P. 2d 426 (Cal. 1964).)

Through circulation with the Chicago Tribune, "The Trib's" county-wide circulation of general news of interest to 65,000 DuPage residents makes it an appropriate vehicle for carrying legal notices which are pertinent to county residents.

For the foregoing reasons, it is my opinion that "The Trib" qualifies as a secular newspaper of general circulation in DuPage County.

Very truly yours,

A T T O R N E Y G E N E R A L