

N.D.A.G. Letter to Thompson (July 11, 1985)

July 11, 1985

Mr. Maury C. Thompson
Sioux County State's Attorney
Sioux County Courthouse
Fort Yates, ND 58538

Dear Mr. Thompson:

Thank you for your letter of July 3, 1985, concerning a dilemma currently facing the Sioux County Board of County Commissioners as to the manner in which the official newspaper shall be replaced given the demise of the Dakota Sun newspaper.

North Dakota law, N.D.C.C. § 46-05-01, provides three legal requirements which must be satisfied by any newspaper prior to its publishing official notices on behalf of a political subdivision. These three requirements include:

- 1) The establishment of a regular and continuous circulation of at least one year and a subscription list of at least 150 subscribers,
- 2) The paper must be nonsectarian and printed at least 3/4 in English, and
- 3) The paper has been admitted to the United States mails and has complied with the requirements of the federal laws governing second class mail for at least one year.

The statute goes on further to provide for contingencies upon the happening of certain events. In a county where no newspaper satisfies these qualifications, any newspaper at the county seat of that county may publish legal notices. The statute then states that in a county where absolutely no newspaper is published, any notice required by law may be published in a newspaper published in an adjoining county and having general circulation in that county.

Although your letter does not clearly state as much, we assume that Sioux County itself falls within the last contingency. In other words, we assume that Sioux County is now a county in which no newspaper is published. Thus, the law specifically provides for the publication of such notices in a newspaper of an adjoining county. Although it is not clearly stated as such, we assume the Legislature intended the term "county" to refer to a county of this state as opposed to a county of another state.

Based upon these assumptions, it would appear that the paper published in South Dakota is not available to Sioux County for publication of official notices. Instead, the county must follow the last sentence of N.D.C.C. § 46-05-01 and look to a newspaper in an adjoining North Dakota county for publication of its official notices.

Sincerely,

Nicholas J. Spaeth

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