



OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

April 22, 1992

Dave Whitney
Editor
Islamorada Free Press
P.O. Box 469
Islamorada, Florida 33036

Dear Mr. Whitney:

Thank you for contacting this office regarding the criteria set forth in ss. 50.011 and 50.031, F.S., for publication of legal notices by newspapers. Your newspaper does not meet all the requirements set forth in these statutes but has a higher circulation than the local paper in which legal notices are published. You question the fairness of the statute which requires that newspapers must be sold in order to satisfy the statutory requirements of s. 50.011, F.S.

After reviewing the information you have submitted, it does not appear that this is a matter upon which this office may comment. The Attorney General is statutorily authorized to provide legal advice and opinions to governmental agencies and officers on questions of law relating to their official duties.

However, in an effort to provide you with some direction in this matter I would note the following. This office has no authority to advise anyone to disregard a legislative direction or mandate. On the contrary, a statutory requirement is presumptively valid and must be given effect until it is declared invalid by the courts.² Thus, this office has no authority to advise you that the requirement in s. 50.011, F.S., may be ignored. I am enclosing a copy of AGO 90-67 which discusses the requirements of these statutes.

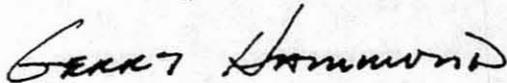
I would also note that legislation was introduced during the 1992 Legislative Session which would have removed the requirement in s. 50.011, F.S., that newspapers be sold in order to qualify for the publication of legal notices.³ This bill died in committee. Thus, while the Legislature recognizes the problem with which you

Mr. Dave Whitney
Page Two

are concerned, it does not appear that they are prepared to make the necessary changes in the statute to delete the sales requirement. You may wish to contact your local legislative delegation to urge that they introduce or support amendatory legislation which would make these changes during the next session.

I trust you will understand that the inability of this office to become directly involved in this matter is the result of statutory constraints rather than a lack of concern.

Sincerely,



Gerry Hammond
Assistant Attorney General

GH/trh

Enclosures

¹ See, s. 16.01(3), F.S., and Department of Legal Affairs Statement of Policy Concerning Attorney General Opinions (copies enclosed).

² Cf., Pickerill v. Schott, 55 So.2d 716 (Fla. 1951), and State ex rel. Atlantic Coastline R. Co. v. State Board of Equalizers, 94 So. 681 (Fla. 1922).

³ See, HB 0451, Florida Legislature, Regular Session, 1992.

Mr. Dave Whitney
Page Three

WHITNEY

RE: NOTICE--NOTICE BY PUBLICATION--LEGAL ADVERTISEMENTS--
NEWSPAPERS--requirements for newspapers publishing legal
notice. ss. 50.011, and 50.031, F.S.