

Its time to allow Public Notices to be published online

Newspapers are fighting hard to protect their government-assured monopoly on public notices. In so doing, some of the facts of the issue are getting a bit muddled. I think it's worthwhile to clarify some of the concepts.

A good editorial on the issue from the newspaper point of view was in Friday's the East Valley Tribune, written by Paula Casey, "Time to fight to keep public notice in Arizona newspapers." It does a very good job of offering their concerns, and is worth a read, although I disagree with the premise.

### Freedom of Choice

While newspapers have historically been the place to publish public notices, that's largely due to the fact that newspapers have been around for a lot longer than radio, television or the Internet. Using the argument that "...we've always done it this way," is about as effective as the argument that, "...we must put public notices online because it's the wave of the future." Both of these arguments are futile - it's much more important to ask, "What is the best way to publish public notices?"

Representative David Stevens leaves that question open with his bill HB2403 that would allow public notices to be published in a newspaper OR online. In other words, the entity placing the public notice would be allowed to determine for themselves where the best audience is for their public notice. Stevens' proposed law does not require one or the other, it does not dictate that governmental agencies can or cannot use their own websites for their notices. It allows freedom of choice.

### Published in Three Places?

The newspapers are arguing that they actually post public notices in three places: in their own newspaper; on their own websites; and in an online database that they have created. This is true. There are some problems here, however, because not everyone takes the newspaper. As a matter of fact, the Courier's Advertising Manager Dick Larson stated before the Technology and Infrastructure Committee that they have a circulation of 15,000 in a population of approximately 150,000. That's only ten percent. And that also represents a 7% drop in subscriptions since 2009, when they state their circulation was 16,145.

Why would the law demand public notices be published in a format that is losing subscribers on a daily basis?

You can see the public notices online in dCourier.com, but only for the last few days they were published. And as for their aggregate database publicnoticeads.com which is purported to offer all the public notices across the state - well, it cannot be indexed by Google or other search engines, and the information it contains will not be seen if an Internet search is done.

Is the Current System Working Well?

"Simply put, the current system is working and working well," Casey asserts.

But, it's not. Due to the fact that printed newspapers tightly control the monopoly - and we're talking only printed newspapers with a paid subscribership - the cost varies widely across the state. The Keyt Law website states, "Publication cost will be greater if your company's known place of business is outside Maricopa County. Caution: The Yuma Daily Sun is the only ACC approved newspaper in Yuma County so it grossly over charges for legal publications, including a Notice for Publication. In the past, this newspaper charged me three times more to publish in Yuma County than what I paid in Maricopa County for similar publication."

Attorney Richard Keyt finds this so offensive that he recommends people register their business with a Maricopa County address, file with the Corporation Commission and then submit a change of address later.

Fonts and Formatting

In addition, fonts are smaller for public notices than any other category in the printed newspaper. Yet, if the newspapers were to use a more readable font, they would have to charge even more for their services, because they charge by the column inch. At \$11 per column inch (more if you're not a government entity with an annual rate) it adds up rather quickly. So, it's really tough to read. And although their online presentation uses a larger font, it's all jumbled together and difficult to comprehend.

Accessibility

Newspapers argue that not everyone has Internet - yes, that's true, but according to Bolt Internet, more than 70% of households in the Prescott area have the worldwide web in their homes. (Also see this study from 2008.)

That's where the whole idea of choice comes in. If the public notice is to be published in an area where Internet usage is more limited, then publishing in a printed newspaper is probably a great (although expensive) choice. If the area is largely saturated with the Internet, allowing online publication might be a cost-effective option.

Casey writes, "...moving notices exclusively to the Internet would disenfranchise many Arizonans." That might be true - but nobody is suggesting that notices be moved exclusively to the Internet. Remember, Representative Stevens' bill would allow publication in either newspapers or online.

In addition, the current system arbitrarily excludes constituencies already, and more than simply those that don't subscribe to a newspaper. What about people who don't read in English? Or those who only get their news from television and radio? Should we place the Public Notices on television, in radio programs and translate them to Spanish-speaking publications?

As John Moody, lobbyist for the newspapers said, in a recent stakeholder's meeting, that would be cost prohibitive.

Yes.

#### Archives

Newspapers argue that when they publish a public notice, they produce an archive of all notices printed and can produce valuable affidavits as authentic proof. What does that mean? It means they print out a piece of paper stating the date the notice was published, attach a copy of the published notice, and get it notarized. Nothing magical about it. Common, everyday, non-newspaper people get things notarized every day.

According to the Clerk at the City of Prescott, they only receive an affidavit if it is requested.

Regarding archives - most websites are archived every day. Even Arizona newspapers are archiving their editions digitally stating, "Quick, inexpensive, online... clean out that old storage room... the result is an online archive that can be used by both staff members and readers..."

and, I would suggest, readers of public notices.

### Valid Public Notices

Casey cites unnamed 'experts' that 'agree' there are four elements to a 'valid' public notice: "(1) the notice must be published by an independent party; (2) the notice must be capable of being archived; (3) the publication must be accessible; and (4) the publication must be verifiable."

Stevens' law doesn't demand an independent party, although it allows for one. Websites can be archived and dated easily. The notices are accessible online to the entire world any time day or night, and, if properly set up, will be searchable and indexed by Google and other search engines. And finally, the date stamp on the affidavit, along with a printed copy of the notice will verify the publication, if required.

### Other Advantages to Online Public Notices

Online notices can have errors corrected and documented immediately (something rather difficult to do in print), and they can be published in a matter of minutes, not days. In addition, they can be formatted in way that is easy to read, links to bid specifications, meeting agendas and minutes and financial statements can be clickable, maps can be embedded or linked to. Items of interest can be added to online calendars and sent to smart phones. They can be translated into other languages at the click of a link, and audio files can be created for those with disabilities.

In short, whether or not it's broken might possibly be a matter of opinion. But, whether or not public notices can be better online is indisputable.