

Opinion No. 60-46

March 14, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Mr. Arsenio J. Martinez State Representative Rio Arriba County Espanola, New Mexico

QUESTION

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1. Is the Village of Espanola required to publish legal notices in both the New Mexican and the Rio Grande Sun?
2. Must an individual reside in the Village of Espanola in order to vote in the municipal election?
3. May an individual vote in a municipal election if he does not reside within the Village limits but is a property owner therein?

CONCLUSIONS

1. The Village must publish its legal notices in both the Rio Grande Sun and the New Mexican.
2. Yes.
3. No, but see analysis.

OPINION

{*401} ANALYSIS

You have stated in your request that the Village of Espanola is situated in two counties, Rio Arriba and Santa Fe. Sec. 10-2-2, N.M.S.A., 1953 Comp., defines a legal newspaper and provides that any and all legal notices or advertisements shall be published in a legal newspaper. Among other requirements for a legal newspaper is that the newspaper must be entered under the second class postal privilege in the county in which said notice or advertisement is required to be published. The New Mexican is not so entered in the County of Rio Arriba and the Rio Grande Sun is not so entered in the County of Santa Fe. Therefore, since it is necessary for you to publish in both counties, you must use both papers for your publication.

Questions 2 and 3 will be answered together. Opinion of the Attorney General No. 3474 held that a person may not vote in the city election unless he actually resides within the municipal limits.

Opinion of the Attorney General No. 58-60 cites the above opinion of approval and reaffirms the holding therein. The only exception to this rule is that a person who owns property lying within the municipal limits would be eligible to vote in a bond election where his property will be made subject to the payment of the obligation created by the issuance of the bonds. Such a property owner would not be eligible to vote for candidates seeking elective positions in a municipal election where he does not reside within the limits of the municipality.

By: B. J. Baggett

Assistant Attorney General