

**OPINION**  
**46-202**

November 25, 1946 (OPINION)

REGISTER OF DEEDS

RE: Instruments Requiring Post Office Address of Maker

Re: Chapter 249 S.L. 1929 - (35-0304, 47-1007, 47-1905)

Your letter of November 21, relating to the above, has come to my desk.

Chapter 249 of the Laws of 1929 applies both to deeds and to mortgages. A former law, chapter 108 of the Laws of 1917, was a similar provision, but applied only to mortgages. Some of the legislative history of these provisions is given in the case of J. I. Case Company v. Sax Motor Company, 64 N.D. 757, 256 N.W. 219. It appears that the law as it was introduced in the session of 1917 related both to deeds and to mortgages, but the law as actually passed related only to mortgages. It has been contended that these laws, related to chattel mortgages as well as to real estate mortgages. The question as to whether or not a chattel mortgage filed, but not containing the post office address of the mortgagor was entitled to record was raised in the case of American Bank v. Dayton, 48 N.D. 353, 184 N.W. 665. The court, however, did not pass on this question. In the Sax Motor Company case, cited above, the court held that the requirements as to post office address, etc. of the 1929 Law does not apply to chattel mortgages.

So far as I am able to find, our court has not passed on the question as to what would be considered a sufficient statement of "post office address" in the instrument. It would seem almost that the words "Post office address" require no interpretation, and the courts have seldom been asked to interpret the same. The nearest interpretation applicable in this case is that found in a Colorado case where the court said: "--A post office address being the place one receives his mail." People v. Newell, 49 Colo. 349, 113 P. 643, 645.

It is our opinion that the law of this state cited above intends that both a deed and a mortgage shall give not only the name of the grantee or the mortgages, as the case may be, but the "post office address" of such grantee or mortgagee, meaning thereby such a post office address as would take a letter addressed to the person at the place where he habitually receives his mail. A letter addressed to John Doe, Washburn, North Dakota, or Minot, North Dakota, or Fargo, North Dakota, without giving a street address, would probably be delivered to the addressee by the postal authorities without difficulty. It is very evident, however, that a letter addressed to John Doe, at Minneapolis, Minnesota, or Chicago, Illinois, or New York, New York, would not reach the addressee. In these latter cases it is my opinion that in addition to the name of the post office, as for instance, Minneapolis, Minnesota, or New York City, New York, should be supplemented by a street address or a business address in some well-known building, as, for instance, the First National Bank Building or the Empire State Building. Unless the address given in the instrument is sufficient in the opinion of the register of deeds

to take a letter addressed to the grantee or the mortgagee, he would be justified in refusing to file and record the instrument. Of course he should immediately return the instrument to the person from whom he received it, with his reason for rejecting the instrument, so that a correction could be made and the instrument recorded.

In the Sax Motor Company case cited above, our court said: "It is clear that if such mortgage was not receivable by the register of deeds because of failure to meet the statutory requirements, no constructive notice was given though the register of deeds received and filed it."

Clearly, a mortgagee would not be protected by the actual recording of a defective instrument under this rule, and should appreciate having his attention called to the deficiency, as that his interests might be protected.

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