

MORTGAGE:
DEED OF TRUST:
RECORDER OF DEEDS:
SATISFACTION OF RECORD:

A public official claiming a fee for performance of his duty must put his finger on the statute authorizing such fee; and that no statute authorizes the payment of a fee to a recorder of deeds for entering on the margin of the record the satisfaction of a mortgage or a deed of trust on realty.



February 1, 1954

Honorable Chas. B. Butler
Prosecuting Attorney
Ripley County
Doniphan, Missouri

Dear Sir:

By your letter of December 21, 1953, you requested an official opinion, reading in part, as follows:

"* * Recorder of Deeds here would like to have your opinion, if you please, whether or not a Recorder of Deeds can charge a fee for satisfying mortgages and deeds of trust on the margin of the record when the same covers real estate. * * *"

A previous opinion of this office rendered to Honorable Elmer Nicklin, Recorder of Deeds, Kennett, Missouri, dated August 28th, 1935, covering satisfaction of record on encumbrances on chattels, has been sent to you under separate cover. This opinion is to be restricted to the satisfaction of record of encumbrances on realty.

Public officials are entitled only to those fees specifically allowed by statute. The Supreme Court of Missouri in *Nodaway County vs. Kidder*, 344 Mo. 795, 129 S.W. (2d) 857, l.c. 860 made this observation concerning compensation to public officials:

"The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a

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compensation therefor is provided by statute. If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too must be strictly construed as against the officer. * * *

The Kansas City Court of Appeals in Holman vs. City of Macon, 155 Mo. App. 398, 1.c. 402, 403, 137 S.W. 16 stated those principles in the following manner:

"* * * A recognized rule of statutory construction is that a public officer cannot demand any compensation for his services not specifically allowed by statute and that statutes fixing such compensation must be strictly construed. (State ex rel. v. Patterson, 152 Mo. App. 264, 132 S.W. 1183). * * *"

A thorough search of the statutes has disclosed no statute authorizing the recorder of deeds to charge a fee for noting on the margin, the satisfaction of a mortgage or deed of trust on realty on record.

Since the Legislature has authorized no fee to the recorder of deeds for noting on the margin of the record the satisfaction of the encumbrance recorded thereon, it must be concluded that no fee was intended for this service, other than the fee for recording the encumbrance in question.

CONCLUSION

It is, therefore, the opinion of this office that a public official claiming a fee for performance of his duty must put his finger on the statute authorizing such fee; and that no statute authorizes the payment of a fee to a recorder of deeds for entering on the margin of the record the satisfaction of a mortgage or a deed of trust on realty.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Paul McGhee.

Very truly yours,

JOHN M. DALTON
Attorney General