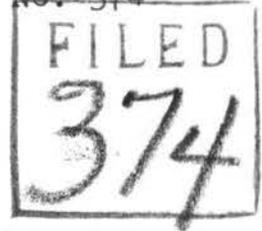


- RECORDERS: 1. Mailing address of grantee or one of the grantees must  
COUNTIES: be placed upon all deeds except deeds of trust or of ease-  
RECORDS: ment or of right-of-way conveying any lands or tenements.  
DEEDS:
2. Recorder of deeds shall not record any such instrument unless said required mailing address appears clearly thereon.
3. Provisions of Sec. 442.390 & 442.400, RSMo 1959, are not affected by omission of said required names upon said deeds.

October 11, 1963

Opinion No. 374

Honorable John Conley, Jr.  
Member, Missouri House of Representatives  
5852 Wabada Avenue  
St. Louis 12, Missouri



Dear Mr. Conley:

This opinion is in answer to your inquiry of September 9, 1963, which is stated as follows:

"The above referred to Missouri Senate Bill 187, has caused much comment and confusion as to the wording of the Bill as passed.

"What seems to be the most confusing is the latter part of the Bill which reads: provided however, that the statutory constructive notice or the validity of the instrument shall not be affected by the absence of the address. e.g. what if the address is not contained on the deed or instrument.

"Would you please clarify so that I may understand more clearly what the effect of the Bill will really be."

In answering this request, we are rendering our opinion as to the meaning of what will be, on October 13, 1963, Section 59.330(1), Laws 1963, and which reads in full as follows:

"59.330. It shall be the duty of recorders to record:

"(1) All deeds, mortgages, conveyances, deeds of trust, bonds, covenants, defeasances, or other instruments of writing, of or concerning any lands and tenements, or goods and chattels, which shall be

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proved or acknowledged according to law, and authorized to be recorded in their offices; all deeds, except deeds of trust, easement or right-of-way conveying any lands or tenements must contain a mailing address of one of the grantees named in the instrument, and the recorder of deeds shall not record such instrument absent such addresses; provided however, that the statutory constructive notice or the validity of the instrument shall not be affected by the absence of the address;"

As may be seen from the foregoing, and a reading of the section prior to October 13, 1963, there has only been added the provision that the grantee's mailing address must be contained on certain specified instruments and that they shall not be filed by the recorder of deeds absent said address, with the added provision that the statutory constructive notice or the validity of the instrument shall not be affected by the absence of the address.

It is the opinion of this office, after a full perusal of Senate Bill No. 187, 72nd General Assembly 1963, that the mailing address of the grantee or one of the grantees must be placed upon all deeds except deeds of trust or easement or right-of-way conveying any lands or tenements, and that the recorder of deeds shall not record such instrument unless said required mailing address appears clearly thereon. This would, in our opinion, be a strict prohibition to the recorder of deeds not to file any of said instruments unless these provisions are fully complied with, and, since it does form a prohibition, this would be ample authority for recorders of deeds to refuse to file for record any instrument not meeting these requirements.

As to the provision contained in said Senate Bill 187, 72nd General Assembly 1963, that the statutory constructive notice or the validity of the instrument shall not be affected by the absence of the address, it is assumed that the statutory constructive notice therein referred to is that contained in Section 442.390, RSMo 1959, which provides in effect that any instrument in writing that is recorded in the prescribed manner shall impart notice to all persons of the contents, and further, that all subsequent purchasers and mortgagees shall be deemed to purchase with notice of said instrument. The statute under discussion herein,

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Section 59.330(1), and this above stated provision, only provide that if the recorder should file said instrument without the required mailing address being thereon, that this shall make no difference as to the legal effect of Section 442.390, and also the above provision contained in Section 59.330 would, in our opinion, not affect the validity of the instrument as provided in Section 442.400, RSMo 1959, which provides that no instrument in writing shall be valid except between the parties and others that have actual notice of said instrument until the same is deposited with the recorder of deeds. In effect, then, all that this last provision of Section 59.330 does is state that if the recorder should ignore the provisions of the section requiring the name of the grantee to be placed thereon, and goes ahead and files for record, that the statutory constructive notice or the validity of the instrument, as provided in Sections 442.390 and 442.400, shall not be affected.

#### CONCLUSION

Therefore, it is the opinion of this office that:

1. The mailing address of the grantee or one of the grantees must be placed upon all deeds except deeds of trust or of easement or of right-of-way conveying any lands or tenements.

2. That the recorder of deeds shall not record any such instrument unless said required mailing address appears clearly thereon.

3. The provisions of Section 442.390, RSMo 1959, and 442.400, RSMo 1959, are not affected by the omission of said required names upon said deeds.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Robert R. Northcutt.

Very truly yours,

THOMAS F. EAGLETON  
Attorney General

RN:BJ