

1594.

COUNTY RECORDER OR DEPUTY MAY FURNISH FINANCIAL REPORTS REGARDING LIENS, WHEN—CREDIT COMPANIES.

SYLLABUS:

A County Recorder or a Deputy County Recorder may furnish financial reports or information regarding liens filed, for a compensation, to credit companies, information for which is contained in the office of the County Recorder, so long as the public is served well and completely, the information being furnished in an individual capacity.

COLUMBUS, OHIO, December 9, 1937.

HON. FREDERICK L. ORUM, *Prosecuting Attorney, Cadiz, Ohio.*

DEAR SIR: This will acknowledge receipt of your recent request for my opinion, which reads as follows:

“The Recorder of this county has confronted me with a question as follows:

Various credit agencies have been sending him requests for reports on the financial standing of people in this community for which they are willing to pay a compensation. Most of the information solicited is a matter of record in this office.

Question: Can the Recorder make these reports and collect the compensation for his own use?

In this same office there is a young lady who has been approached by a large credit reporting agency to make daily reports of the recording of liens and transactions in her office for which they are willing to pay her compensation.

Question: Can this Deputy Recorder collect compensation for this work for her own use?”

Your inquiry is (1) whether a county recorder may make reports of the financial standing of individuals for a compensation, the reports being based upon matters of record in the Recorder's office; and (2) whether a Deputy Recorder, for a compensation, may furnish daily lien reports to a credit agency.

The duties of a County Recorder are entirely statutory as well as the powers of such officer. He has only the express powers by statute and implied powers which are necessary for the carrying into effect of

the express powers. The County Recorder has no other duties except to comply with the provisions of the law.

I find no provision in the statute prohibiting a County Recorder giving out information which is of record in his office. Such records are public records to put any one on notice as to those documents recorded. Any one can view the records of the Recorder's office. I do not find that any express duty is imposed upon County Recorders to copy off or advise any one of the existence of recorded instruments. The Recorder's duty is fulfilled when he has recorded in the proper place all instruments properly submitted to him for record. After that the record is public property.

Further, I find no provision prohibiting a Deputy Recorder giving out information from day to day on liens filed for record in the office of the County Recorder.

Inasmuch as there is no provision prohibiting either the Recorder or his Deputy furnishing information to outside persons there remains only to consider the problem of public policy or inconsistent employments.

This subject was considered in an opinion of the Attorney General, being No. 2383, reported in Opinions of the Attorney General for 1928, Vol. III, Page 1804, the second branch of the syllabus reading as follows:

"A deputy county officer is not precluded from private employment so long as such private employment is not inconsistent with public employment, and does not in any way interfere with the duties devolving upon him as such deputy."

Quoting from this opinion at page 1807:

'Coming now to your second question, it is a familiar principle of law that public officers and their deputies owe to the public faithful and diligent service, and are not permitted to devote the time which they owe to the public service to their own private business. Nor are they permitted to conduct a private business, which will in any wise conflict or interfere with the duties of their position. The preparation of abstracts does not necessarily conflict with the duties of a deputy recorder, providing such abstracts are made at such time as to not interfere with the duties of such deputy recorder, which he is required to perform as a part of his public duties. A deputy recorder or any other public servant is not required, after all the work required in his position is performed to sit idly by and not profitably employ his time. If a deputy recorder does all the work necessary to keep the records, as required by law, and thus fully serves the public, there can be no objection to his employing the remaining portion of his time in making abstracts, *or doing*

anything else which does not in any wise conflict with his public duties. Each individual instance of an alleged conflict of public duty with private employment would necessarily have to be determined on the facts. In my opinion, it cannot be said as a matter of law, that the mere fact that a deputy recorder makes abstracts during the hours that the recorder's office is open to the public is necessarily a violation of his duties as deputy recorder."

It is therefore my opinion that (1) a County Recorder may make reports for a compensation to credit agencies in his individual capacity, the information for such reports coming from his own office records; and (2) a Deputy County Recorder may report to a credit agency for a compensation the daily recording of liens, in an individual capacity, such information coming from the records of the office in which she works, upon the condition that any such work does not in any way interfere or conflict with the public duties of such officers.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1595.

APPROVAL—BONDS OF SALEM-OAK HARBOR VILLAGE
SCHOOL DISTRICT, OTTAWA COUNTY, OHIO, \$66,000.00
(Unlimited).

COLUMBUS, OHIO, December 10, 1937.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.
GENTLEMEN:

RE: Bonds of Salem-Oak Harbor Village School
Dist., Ottawa County, Ohio, \$66,000.00 (Unlimited)

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of School building bonds in the aggregate amount of \$88,000, dated December 10, 1937, bearing interest at the rate of 3½% per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds