OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. Woodrow Laughlin
County Attorney
Jim Wells County
Alice, Texas

Dear Sir:

Opinion No. O-2382
Re: County Clerks - Filing of Instruments

Your request for opinion has been received and carefully considered by this Department. We quote from your letter as follows:

"If two or more instruments are deposited at the same time with the county clerk for filing and recording, either by mail or by person, should filing time be the same on all the instruments, or should the said filing time be spaced one (1) minute apart."

Article 6594, Vernon's Annotated Texas Civil Statutes, reads as follows:

"When any instrument of writing authorized by law to be recorded shall be deposited in the county clerk's office for record, if the same is acknowledged or proved in the manner prescribed by law for record, the clerk shall enter in a book to be provided for that purpose, in alphabetical order, the names of the parties and date and nature thereof, and the time of delivery for record; and shall give to the person depositing the same, if required, a receipt specifying the particulars thereof."

We quote from the case of Sun Lumber Company vs. Muttig Sash & Door Company, 136 SW (2d) 561, cited by you in your letter, as follows:

"An instrument is deemed in law filed at the time it is placed in the hands of the officer authorized by law to file same and left in his keeping, regardless of

NO COMMUNICATION IS TO BE CONSTRUED AS A DEPARTMENTAL OPINION UNLESS APPROVED BY THE ATTORNEY GENERAL OR FIRST ASSISTANT

> whether a file mark is placed on such instrument or not, and regardless of whether the file mark gives some other date of filing. Beal vs. Alexander, 6 Tex. 541; Holman vs. Chevailler, 14 Tex. 339; Snider vs. Mathvin, 60 Tex. 487-494; Lessing vs. Gilbert, 8 Tex. Civ. App. 174, 27 SW 751, 752; Pendleton vs. Shaw, 18 Tex. Civ. App. 439, 44 SW 1002, 1010...." (Underscoring ours)

You are therefore respectfully advised that it is the opinion of this department that if two or more instruments authorized by law to be recorded are deposited at the same time with the county clerk's office for filing and recording, either by mail or person, said instruments would be in law filed at the same time and the clerk should show the same filing time on each and all of said instruments.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Fanning
Assistant

WJF:AW

APPROVED JUN 15, 1940
(signed) Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION COMMITTEE
By B.W.B.
Chairman