[redacted]

17 November 1970

Mr. Robert L. Bornarth
Director
Service and Reference Department
Aircraft Owners & Pilots Association
Washington, D. C. 20014

Dear Mr. Bornarth:

We refer to your letter of October 23, 1970 regarding the registration of U.S. civil aircraft where the owners' interest is as joint tenants with a right of survivorship. While your letter only refers to a joint tenancy with a right of survivorship, our reply is also applicable to a tenancy by the entirety where that is the form of estate under state law.

As pointed out in Mr. Yodice's letter of October 22, 1970, the validity and the nature of the ownership of a particular aircraft are matters to be determined under applicable state law. Under the provisions of Section 47.5(b) of the Federal Aviation Regulations, the FAA will issue a Certificate of Aircraft Registration to the person who appears to be the owner on the basis of the evidence of ownership either submitted with the Application for Registration or already recorded by the FAA Aircraft Registry. Since ownership as joint tenants with a right of survivorship or tenants by the entirety, is a form of ownership generally accepted by most states, the FAA Aircraft Registry will (absent a contra rule in a particular state) accept such a transfer as a basis for registration. However, it should be emphasized that such registration does not in any way determine the validity of the ownership of the aircraft or the rights of the surviving spouse. Section 501(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1041(f)) and Section 47.5(b) of the Federal Aviation Regulations provide that registration by the FAA is not evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is in issue.

While the FAA Aircraft Registry will accept, for registration purposes, a bill of sale conveying title to a husband and wife as joint tenants with right of survivorship, the actual registration certificate will be made out to the husband and wife as co-owners. The reason for this is that, for registration purposes, the only recognized forms of ownership are individual, partnership, co-owner, corporation and government. As pointed out above, this form of registration certificate would have no legal effect on the right of the surviving spouse.

As to the two additional specific questions raised in your letter, the "co-owners" box should be checked by the husband and wife when completing

the application for registration. In the event of the death of one of the tenants, the survivor would be able to have the aircraft registered solely in his name by submitting a new application for registration, together with a copy of the death certificate of the deceased spouse. Where the bill of sale does not reflect the joint tenancy with a right of survivorship, it would be necessary for the surviving spouse to submit other evidence of the existence of the tenancy as well as the death of the deceased spouse.

Finally, while not directly pertinent to your inquiry, we should note that the FAA Aircraft Registry would also be unable to issue registration certificates in the alternative such as "John Jones or John Smith". Section 501 of the Federal Aviation Act of 1958 has been interpreted as requiring the issuance of registration only in the name of the owner and not in the alternative.

We trust this will be of assistance to you. If you have any further questions, please feel free to contact us.

Sincerely,

ORIGINAL SIGNED BY
FREDERICK C. WOODRUFF

FREDERICK C. WOODRUFF
Asst. Aeronautical Center Counsel, AC-7

cc:
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