

March 15, 1990

Mr. Dick P. Peoples
2432 U.S. Hwy. 19
c/o Tropical Realty
Holiday, FL 34691

Dear Mr. Peoples:

Your letter of March 9, 1990, has been referred to this office for review. I am the Assistant Chief Counsel for the Aeronautical Center, and provide legal advice to the FAA Aircraft Registry.

Your specific question is, "Is recordation of an airplane transfer with the FAA prerequisite to legal transfer?" Answer, No. At 49 U.S.C. 1406, the Federal Aviation Act states that the validity of any instrument eligible for recording under the Act (such as the bill of sale you refer to) shall be governed by the laws of the state in which such instrument is delivered. However, you should also be aware of the pronouncement of the United States Supreme Court in Philkov v. Shackelford, 462 U.S. 406, that a conveyance, such as the bill of sale, is not binding on third parties unless and until it is recorded with the FAA under 49 U.S.C. 1403.

We do not fully understand the fact situation you stated in your letter in that if the bill of sale was not recorded with the FAA, but was retained by a banker, how has (if he has) the purchaser registered the aircraft with the FAA, since the bill of sale would be indispensable in supporting his Application for Registration. There seems to have been some evidence of ownership in the purchaser, filed with the FAA, since you state the banker was able to get a new mortgage on the aircraft recorded, and that would not ordinarily be permitted without registration in the name of the new owners.

As stated, we are not sure that all the facts have been presented to us, but hope this is of some help.

Sincerely,

Joseph R. Standell
Assistant Chief Counsel
for the Aeronautical Center

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By: R. Bruce Carter
Attorney Adviser

cc: Myrt Hales, Esq.
200 Julia Street
Rayville, LA 71269