OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

January 31, 1996

FILE NO. 96-004

COUNTIES:
Provision of Housing for Families
of Nursing Home Residents

Honorable Michael L. Wepsiec
State's Attorney, Jackson County
Jackson County Courthouse
Murphysboro, Illinois 62966

Dear Mr. Wepsiec:

I have your letter wherein you inquire whether Jackson County may build, maintain and operate rental housing units adjacent to the county nursing home, to be leased to spouses, relatives or significant others of nursing home residents at non-subsidized rates. For the reasons hereinafter stated, it is my opinion that the county is not authorized to enter the rental housing market for the proposed purpose.

From the information supplied in your letter and by telephone, it is my understanding that rental of the proposed housing would not be limited to low income individuals or, specifically, to the elderly. Rentals would be at market rates, without subsidies, and could be made to any persons connected

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with nursing home patients, without regard to age, need or other factors beyond ability to pay. The lessee would not receive nursing care or maintenance services from the nursing home.

Counties are clearly authorized to act in a variety of ways to alleviate housing shortages for low income and elderly residents. Counties may establish homes for the aged (55 ILCS 5/22001 et seq. (West 1994)), and may administer Federal housing and development funds (55 ILCS 5/5-1093 (West 1994)). They may create housing authorities to provide housing for lower income residents (310 ILCS 10/1 et seq. (West 1994)), and may support the efforts of housing authorities both directly and indirectly (310 ILCS 15/1 et seq. (West 1994)). Counties are eligible to seek funding for projects under the Illinois Affordable Housing Act (310 ILCS 65/1 et seq. (West 1994)) to provide housing to elderly and lower income residents. These statutes establish that the provision of safe, sanitary, affordable housing for citizens who are unable to procure such housing in the open market is a public purpose and a proper use of public funds and public property.

Apparently, Jackson County does not propose to act pursuant to any of the cited statutes, or to limit rental of housing units to the persons intended to be served by those statutes. Rather, it would provide rental housing on essentially the same basis as would a private developer in the local market.

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A non-home-rule county possesses only those powers which are expressly granted to it by statute or by the constitution (Ill. Const. 1970, art. VII, sec. 7), together with those powers that may be implied as being necessary to carry out those express powers. (Heidenreich v. Ronske (1962), 26 Ill. 2d 360.) Further, a county cannot lease its property for private purposes because public funds, property and credit may be used only for public purposes. Redmond v. Novak (1981), 86 Ill. 2d 374, 382; Ill. Const. 1970, art. VIII, sec. 1(a).
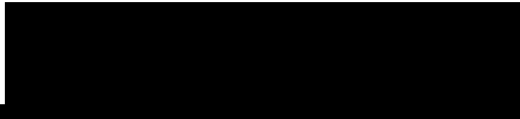
The General Assembly has recognized a need for additional housing for certain population groups, and has provided several means of meeting that need. Those means include empowering counties to fund, administer and assist several housing assistance programs. The fact that the General Assembly has provided these specific, rather broad remedies tends to exclude the existence of other remedies. (Cunningham v. Brown (1961), 22 Ill. 2d 23, 30.) Therefore, it cannot be inferred that because counties may engage in certain housing projects, they may enter the housing market in any way they choose.

It is axiomatic that counties may use their property only for public purposes. No public purpose has been identified which would permit counties to compete with private developers in the rental of housing units to persons at market rates. No statute permits the county to engage in such a project. There-

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fore, it is my opinion that Jackson County does not possess the
authority necessary to undertake the proposed project.

Sincerely,

JAMES E. RYAN
ATTORNEY GENERAL