



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

May 6, 1997

FILE NO. 97-004

COUNTIES:
Demolition of Former
Nursing Home Structure

Honorable Marshall E. Douglas
State's Attorney, Rock Island County
Rock Island County Courthouse
Rock Island, Illinois 61201

Dear Mr. Douglas:

I have your letter wherein you inquire whether a county that levies taxes for nursing home purposes pursuant to section 5-1005 of the Counties Code (55 ILCS 5/5-1005 (West 1995 Supp.)) may use revenue generated by that levy to demolish a structure that was once used for a nursing home facility, but that is no longer necessary for those purposes. You further inquire whether funds received from the anticipated sale of the property upon which the structure to be demolished is located may be placed in the county's general fund. For the reasons hereinafter stated, it is my opinion that proceeds from the nursing home tax levy cannot properly be used for the demolition of a structure that

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has become surplus property. Proceeds from the sale of such property, however, may be placed in the general revenue fund.

Section 5-21001 of the Counties Code (55 ILCS 5/5-21001 (West 1995 Supp.)) authorizes counties which establish and maintain county nursing homes:

" * * *

8. To make appropriations from the county treasury for the purchase of land and the erection of buildings for the home, and to defray the expenses necessary for the care and maintenance of the home and for providing maintenance, personal care and nursing services to the patients therein, and to cause an amount sufficient for those purposes to be levied upon the taxable property of the counties and collected as other taxes and further providing that in counties with a population of not more than 1,000,000 to levy and collect annually a tax of not to exceed .1% of the value, as equalized or assessed by the Department of Revenue, of all the taxable property in the county for these purposes.

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Section 5-21001 states with specificity the purposes for which the tax may be levied. Generally, the enumeration of certain things in a statute implies the exclusion of all other things, even though they are not expressly prohibited. (Weeks v. Hoffman (1971), 1 Ill. App. 3d 337, 340.) The creation of a fund for specific purposes at least impliedly prohibits the use of the fund for other purposes. (People ex rel. Brenza v. Gilbert (1951), 409 Ill. 29, 35-37.) Moreover, it is well established that taxes levied for a specific purpose must be applied to the

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purpose for which they were levied. People ex rel. Pollock v. Chicago, Terre Haute and Southeastern Ry. Co. (1925), 315 Ill. 589, 591; McFarland v. Town of Bourbonnais (1950), 339 Ill. App. 328, 334; 1981 Ill. Att'y Gen. Op. 108, 109.

The demolition of a structure on property that is no longer needed for any county purpose does not fall within any of the specific purposes for which the tax authorized in section 5-21001 may be levied. The mere fact that the property was at one time used for nursing home purposes does not affect that conclusion. The demolition of the unneeded building will not contribute to the care and maintenance of another home or the maintenance, personal care or nursing services provided for patients therein. Therefore, it is my opinion that funds derived from the nursing home levy cannot be used for the demolition of the building.

Your second question relates to the use of funds realized from the sale of the surplus property. You have stated that the property was not purchased or improved with funds from a special levy, although it was, at one time, used for nursing home purposes.

Subsection 5-21001(9) of the Counties Code provides:

" * * *

9. Upon the vote of a 2/3 majority of all the members of the board, to sell, dispose of or lease for any term, any part of the [nursing] home properties in such manner and upon such terms as it deems best for the

interest of the county, and to make and execute all necessary conveyances thereof in the same manner as other conveyances of real estate may be made by a county. However, if the home was erected after referendum approval by the voters of the county, it shall not be sold or disposed of except after referendum approval thereof by a majority of the voters of the county voting thereon.

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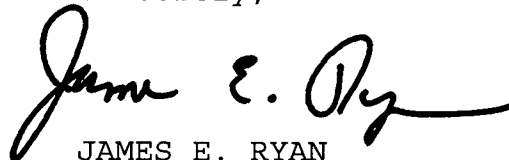
This provision permits a sale of the property, upon the terms deemed in the best interest of the county. Because this home was erected before referendum approval of the levy, no referendum is necessary for its sale. The section does not restrict the use of the funds realized from the sale, but only requires that the terms of the sale be approved by 2/3 of all members of the board. The conveyance is otherwise to be made in the same manner as other conveyances of real estate by the county.

Subsection 5-1005(2) of the Counties Code (55 ILCS 5/5-1005(2) (West 1994)) authorizes a county generally to sell and convey or lease any real property which it owns. This section does not limit the use of the proceeds of such a sale of property, or specify any special fund to which the proceeds are to be credited. Therefore, it is my opinion that the proceeds from the sale of such property should be deposited to the credit of the

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general fund, and may be used for any purpose appropriate there-
for.

Sincerely,

A handwritten signature in black ink, reading "James E. Ryan". The signature is written in a cursive style with a long, sweeping tail on the "y".

JAMES E. RYAN
ATTORNEY GENERAL