

**Property Tax - Opinion - Multiple Housing (499A)**

**To: Cary Halfpop, Property Tax Division**

**From: Ed Henderson, Policy**

**Date: November 26, 2008**

**Subject: Multiple Housing (499A)**

**STATUTES AND RULES:**

Iowa Code Chapter 499A and Iowa Code section 441.21(11) and subrules 71.1(4) and 71.1(5), Iowa Administrative Code.

**FACTS:**

The Warren County Assessor has a constituent that feels 499A (Multiple Housing) property should receive a residential classification pursuant to section 441.21(11) because section 499A.4 permits the organization to be the lessee of the property.

**ISSUE:**

The issue is whether the organization must own the property to receive the residential classification.

**DETERMINATION:**

Iowa Code section 441.21(11) states that "residential property" includes all land and buildings of multiple housing cooperatives organized under chapter 499A. Subrules 71.1(4) and 71.1(5) both state that multiple housing cooperatives organized under chapter 499A are to be classified as residential real estate. The word of is not used in the subrules but the statute prevails.

There are several exemptions in section 427.1 which state that the exemptions apply to the property of some entity or organization. For example, in subsections 1 and 2 of section 427.1, the exemption applies to property of the United States, of the state of Iowa, of a county, and of a city. These sections have been interpreted for many years to mean the property must be owned by these entities to qualify for exemption. There have been opinions of the Attorney General, not cited in this memo, that state no exemption is allowable to these entities if they are the lessee of the property rather than the owner of the property.

Section 441.21(11) was enacted by the 76th General Assembly in 1996 (House File 559) and the explanation of the bill states that “This bill provides that land and buildings owned by multiple housing cooperatives are considered residential property.”

In conclusion, it is my opinion that the property must be owned by the multiple housing cooperative to receive the residential classification pursuant to section 441.21(11).