Appeal No. VA96/3/037

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Norish (Castleblayney) Limited **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: Cold Stores, Offices and Yard at Map Ref: 5.6B.6A/1, Townland: Tullynamarla, ED: Laragh, RD: Castleblayney, Co. Monaghan
Quantum - Coldstores, Market conditions

B E F O R E

Fred Devlin - FRICS.ACI Arb.	**Deputy Chairman**
Con Guiney - Barrister at Law	**Deputy Chairman**
Barry Smyth - FRICS.FSCS	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF JULY, 1997

By Notice of Appeal dated the 26th July, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,850 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

"**1.** The valuation is excessive and inequitable.
2. The valuation is bad in law".

Oral Hearing:

The appeal proceeded by way of an oral hearing which took place in the Courthouse, Monaghan on the 25th day of April, 1997. At the hearing the Appellant was represented by Mr. Alan McMillan, an Associate of the Society of Chartered Surveyors, a member of the Irish Auctioneers and Valuers Institute and a Director of Donal O'Buachalla & Company Limited. The Respondent was represented by Mr. Peter Walsh, M.A. B.Sc. (Surveying), a Valuer with 10 years experience in the Valuation Office. Mr. Greg O'Hara, Financial Controller of the Norish Group and Mr. Frank Moran, a Civil Engineer also appeared.

Prior to the hearing the Valuers supplied written submissions and valuations to the Registrar which were subsequently exchanged between them.

At the oral hearing the Valuers adopted their written submissions and valuations as being their evidence in chief given under oath.

The property, the subject of this appeal comprises a purpose built cold store facility with ancillary blast freezers, plant room, offices and yard located on a minor county road close to the village of Lough Egish, approximately 5 miles south west of Castleblayney.

Evidence was given that the buildings which have a total area of 12,732.3 sq.m. (137,827 sq.ft.) were built in four main stages over an 18 year period between 1975 and 1993. The total cold store capacity is now 24,000 tonnes.

The agreed areas and capacity are as set out below.

Building Ref.	**No.**	**Sq.M.**	**Sq.Ft.**	**Capacity**	**Built**
Cold Store	1	2,224.5	23,945	6,000 tonnes	1975/76
	2	2,224.5	23,945	6,000 tonnes	1978
	3	2,224.5	23,945	6,000 tonnes	1984
	4	2,576.0	27,728	6,000 tonnes	1993
Total		**9,249.5**	**99,563**	**24,000 tonnes**	

Building Ref. No.	**Sq.M.**	**Sq.Ft.**
Blast Freezers	230.3	2,479
Administration Offices	108.6	1,945
Packaging Area	2,716.5	29,240

Plant house/Workshop	427.4	4,600
Overall Total Area	**12,732.3**	**137,827**

Mains water and ESB both single and 3 phase supplies are connected to the property. Sewage disposal is by means of a septic tank.

Construction:

The cold stores are of steel frame construction with insulated metal clad walls. Stages 1, 2 and 3 have roofs of "Sicoral" asphalt boarding on steel decking and provide a headroom of 9.2 metres (30 feet). Stage 4 has a 35 mm thick roof decking on vapour barriers supplemented with 175 mm thick insulated ceiling panels to the underside of the roof purlins and provides headroom of 11.4 metres (37 feet).

Ancillary buildings include the enclosed yard/packaging area which incorporates the former open fronted loading canopy with a V-pitched metal decked roof. The office building which adjoins the yard is of rendered concrete block construction under a flat felt roof and includes the Department of Agriculture & Custom Offices.

The plant room is removed from the cold stores with services linked via an overhead gantry.

Access to the property is along a shared roadway leading to a concrete paved marshalling yard which is also used for open storage purposes.

Valuation History:

Evidence was given that the hereditament was listed on the 1994/4 revision and the rateable valuation determined at £1,850. At the first appeal stage no change in the valuation was made by the Commissioner of Valuation and it is against this determination that the appeal was made to the Tribunal. The parties are agreed that the relevant valuation date for this appeal is November 1994.

Appellant's Evidence:

Mr. McMillan outlined the development of the facility which commenced in 1975 as part of a "Food City" concept. This, he described as being a commercial cold store activity which would also provide central services to food processing companies operating out of properties located on adjoining land owned by Norish. For a number of reasons this project did not reach fruition and consequently Norish concentrated on their core business and expanded the premises to meet the demand for intervention beef storage. In or about the beginning of 1994 following a change in EU policy the amount of beef sold into intervention fell dramatically leading to overcapacity in the cold store market and falling levels of intervention purchases. The impact of the collapse, Mr. McMillan said was probably more severe for the subject than other installations due to its remote location and the opening of two new cold stores in Castleblayney and Carrickmacross in December and July 1994 respectively. Resulting from the reduction in the demand for intervention storage, a number of stores had closed but nonetheless there is still according to Mr. McMillan a surplus of accommodation and that the competition for business is intense.

Mr. McMillan introduced evidence showing the impact of the collapse in the market as far as the subject was concerned which showed a drop in the occupancy level from 82% in January 1994 to 53% in December 1994 and a further drop to 26% in December 1995. Arising out of the BSE crisis the occupancy level increased from 27% in January 1996 to 58% in August of the same year.

In response to the change in circumstances Norish in 1994 considered all the options open to it in order to keep their facility in operation including the reduction of staff levels by 50%. The Stage 3 building was decommissioned and in late 1994 an attempt to let it for dry storage purposes proved unsuccessful. The feasibility of dismantling the Stage 4 building was also considered and alternative sources of business explored. In mid 1996 the decision was taken to sell the property and the sale was completed by September 1996 for a consideration of £825,000 to include a small office building separately valued to which Mr. McMillan attributed a figure of £50,000. The equipment was sold separately for £825,000. The price obtained, Mr. McMillan pointed out, compared very unfavourably with the cost of £2.2 m for constructing the Stage 4 building in 1993.

Mr. McMillan in his evidence said that the hereditament had to be valued as a single unit of occupation. Regard he said had to be had to the fact that the building contained sections which are over 20 years old and which are inefficient in design and operation and the fact that only the Stage 4 building could be called modern. However, it too was serviced by old and out of date freezing plant.

Mr. McMillan said that at the relevant date the only long term future for the subject property was that the Stage 4 building would continue in use as a cold store whilst the remainder of the complex would be converted for ordinary warehousing purposes. Accordingly, therefore he valued the hereditament as set out below.

Coldrooms/Stages 1, 2 and 3:	71,836 sq.ft.	@	£1 psf	=	£ 71,836
Covered Yard/Packing Area:	29,240 sq.ft.	@	£1 psf	=	£ 29,240
Coldroom/Stage 4:	27,728 sq.ft.	@	£2 psf	=	£ 55,456
Blast Freezers	2,479 sq.ft.	@	£2 psf	=	£ 4,958
Planthouse	4,600 sq.ft.	@	£1 psf	=	£ 4,600
Offices	1,945 sq.ft.	@	£2 psf	=	£ 3,890
			Total	=	**£169,980**
			Say		**£170,000**
			NAV		**£170,000**
	RV @ 0.5%			=	**£850**.

Under cross examination, Mr. McMillan agreed that at the relevant date the subject was solely in use for cold store purposes with an occupancy rate of 53%. He also agreed that the BSE crisis had lead to an uplift in demand for cold store accommodation. However, he said that this would not have been known at the relevant date and in any event the beneficial effects may only be of short term duration. Mr. McMillan also agreed that up to the sale and in fact up to the present time the subject property has been used solely for cold store purposes. Mr. McMillan offered no comparisons to support his opinion of the net annual value but included in his written submission a schedule of rateable valuations of other cold stores as set out in Appendix 1.

Mr. Greg O'Hara, Financial Controller of the subject gave an historical analysis of the cold storage market over the past 20 years and indicated how in November 1993 the subject property enjoyed an 82% occupancy level at a rate of £2.29 per tonne per week. In November 1994 occupancy was 52% at a weekly rate of £1.75 per tonne and at the end of 1995 the occupancy rate was 26% at a weekly rate of £1.72 per tonne. In the cold store business, Mr. O'Hara said that the profit is derived from demand and market price and in the absence of a strong intervention market there is effectively no alternative market for buildings specially built for cold storage purposes.

Mr. O'Hara outlined how the Lough Egish complex changed from being a major source of profit within the group in 1993 to a substantial loss making facility in 1995. In the 1995 accounts the value of the subject property was written down by £1.5 m due to the fact that whilst the Department of Agriculture had not formally dismantled the intervention system the future of the market was extremely bleak and weekly storage rates as low as 99p per tonne.

In response to questions from Mr. Walsh, Mr. O'Hara agreed that what had happened in the subject property was typical of the industry as a whole. However, he did add that some stores particularly close to Dublin and other larger cities and towns were not as severely affected as they were able to engage in the storage and handling of finished product goods.

Mr. Moran in his evidence gave a brief outline and history of the construction of the plant and how the refrigeration plant building was built separately from the cold store so that it could serve other buildings to be built as part of the overall "Food City" complex. In practice this is not the ideal arrangement for a cold store he said, as the long run of pipes leads to a reduction in the efficiency of the operation. The under floor pressurised glycol pipes have insufficient valving and this rendered it impossible to chill only those areas which were in use leading to additional operational inefficiencies.

Mr. Moran, Civil Engineer described in some detail the various construction techniques used in the older buildings and outlined how the Stage 4 building was a better insulated building than the remainder. He also explained to the Tribunal the problems associated with the glycol pipework embedded in the concrete floor and the effect it has on the economic operation of the cold stores. Mr. Moran described how the floor could crack if the temperature within the cold store was allowed to rise above a certain level.

Mr. Moran also explained how the build up of ice in the roof structure in the older Stage 1 and 2 buildings over a prolonged period could lead to the roof collapsing if the ambient temperature inside the building was permitted to rise above freezing level. Consequently, even though these buildings were not in use the ambient temperature had to be maintained at normal working levels. Under cross examination by Mr. Walsh, Mr. Moran agreed that under floor glycol piping was the most efficient and most commonly used method of freezing found in cold stores. However, Mr. Moran pointed out that the pipework in older cold stores was more likely to give problems than that found in more modern plants due to the fact that it was easier to isolate and repair fractured pipework in the newer establishments. As far as the subject property was concerned he could not say with any degree of accuracy whether or not the roofs of Stage 1 and Stage 2 buildings were penetrated by ice as all the buildings were still used for cold storage purposes. However, he had experienced the problem in a plant of a somewhat similar age occupied by Norish in Belfast.

<u>Respondent's Evidence:</u>

Mr. Walsh in his evidence described the location and the construction of the various buildings within the complex. Whilst he agreed with Mr. McMillan that the property was located on a minor county road he submitted that, it was nonetheless convenient to the national road network.

Mr. Walsh valued the hereditament as a cold store by comparison with the other cold stores which had been valued in recent revisions. Accordingly, therefore he valued the subject hereditament as follows:-

Cold Store	99,564 sq.ft. @ £3.00 psf =	£298,692
Offices	1,945 sq.ft. @ £3.00 psf =	£ 5,835
Blast Freezers	2,479 sq.ft. @ £3.00 psf =	£ 7,437
Covered Loading Yard	29,240 sq.ft. @ £1.50 psf =	£ 43,860
Engine/Transformer Room	4,600 sq.ft. @ £1.50 psf =	£ 6,900
	NAV	£ 362,724
	£362,724 @ 0.5% = £1,814	
Plus addition for:	475 KVA Transformer	£ 35
	RV	**£1,850**

Mr. Walsh said he now understood that the transformer did not form part of the hereditament and hence he wished to amend his opinion of rateable valuation to £1,815.

In support of his valuation, Mr. Walsh produced details of three other cold stores which have been recently revised. These comparisons are set out in detail at Appendix 2 attached to this judgment.

Under cross examination, Mr. Walsh agreed that the valuation of cold stores upon which he relied were determined before the changes in the intervention system became effective. He also agreed that circumstances in the beef intervention market at the relevant date (November 1994) were substantially different from those in 1992 and 1993.

Mr. Walsh in response to a question from this Tribunal said he had valued the subject hereditament on a "Tone of the list" basis and by comparison with the valuation of other cold stores as set out in the list of comparisons attached to his written submission. He agreed that a hypothetical tenant in November 1994 would have been aware that market conditions for cold stores were significantly different from previous years and this would have the effect of reducing rental value. When asked what downward adjustment a hypothetical tenant might make, Mr. Walsh said that a figure in the order of between 15% and 20% would be reasonable.

Findings:

The Tribunal has carefully considered all of the evidence and arguments adduced at the oral hearing and makes the following findings.

1. Cold store capacity in this country increased significantly from the early 1970's to meet mainly the demand for space arising from the operation of the EU intervention policy for beef.

2. As a result of the reform of the Common Agricultural Policy in 1993 no beef was purchased into intervention in 1993 and 1994 and existing stocks of beef in storage were substantially reduced by sales to non member states.

3. Due to the fact that existing stocks were being sold and not being replaced by new intervention stock, occupancy rates dropped and so too did weekly storage rates. In essence the normal laws of supply and demand came into effect.

4. The Tribunal accepts Mr. O'Hara's evidence that occupancy rates fell from 82% in November 1993 to 26% at the end of 1995 in the subject property. During the same period weekly storage rates dropped from £2.29 to £1.72 per ton per week.

5. The Tribunal accepts that the fall in occupancy levels and the weekly storage rates was mainly due to the changes that had taken place in the Common Agricultural Policy.

6. In November 1994 it is likely that a hypothetical tenant in the market would have been aware that the demand for cold store premises had declined significantly in a relatively short time due to the changes in the Common Agricultural Policy. Hence, the hypothetical tenant for the subject property would probably have taken the view that these changes were long term in nature and that large scale intervention was now a thing of the past and upon that assumption form an opinion of rental value.

7. The Tribunal accepts that the BSE crisis has seen a return of intervention and that in recent times occupancy levels have improved. Whatever about the argument that this is only a short term phenomenon, the Tribunal is of the opinion that a hypothetical tenant in the market at the relevant date could not have foreseen the BSE crisis and hence it would not have been a factor in the decision making process at that date.

8. Comparisons introduced and relied upon by Mr. Walsh had their rateable valuations determined before the changes in the Common Agricultural Policy were introduced and at a time of traditionally high occupancy levels and at weekly storage levels considerably higher than those pertaining in November 1994. Accordingly, the Tribunal has come to the conclusion that some adjustment must be made to reflect the changes in underlying circumstances that took place in 1994 and which pertained at or about the relevant date i.e. November 1994.

9. Cold stores by their very nature are warehouses with special features to enable produce to be stored at low, ambient temperatures. At different times cold stores may be used as general purpose warehouses. However, no matter how buoyant the market, warehouses cannot be used as cold stores. Hence it follows that cold stores in principle will tend to be valued higher than conventional warehouses if only to reflect their inherent flexibility in use. This principle was accepted, albeit with some reluctance by Mr. McMillan.

10. Mr. Moran's evidence in relation to cold stores was helpful to the Tribunal, particularly that in relation to the specification and design of the cooling plant and apparatus. The Tribunal notes that the design of the subject premises makes it virtually impossible to isolate those areas not occupied by product and that this inevitably gives rise to higher than normal costs in use.

11. The Tribunal notes that the buildings are and have always been in continuous use for cold storage purposes. Under the circumstances the Tribunal has come to no conclusion regarding the possibility of an ice build up in the roof structure although it accepts Mr. Moran's expert evidence in this regard.

12. Having regard to Mr. Moran's evidence the Tribunal has come to the conclusion that some allowance should be made for the design deficiencies and the inefficiencies in use in respect of the Stage 1 and 2 buildings and the fact that the plant room is located some distance away from the cold store buildings.

13. Before giving a final determination in this appeal the Tribunal would like to compliment the Valuers for the manner in which they presented their cases. Mr. McMillan's evidence was clear, well argued and concise and the supporting evidence of Mr. O'Hara and Mr. Moran was of great assistance to the Tribunal. Mr. Walsh for his part presented his evidence in an equally clear fashion and showed a good understanding of the intervention system and how it effected the market in cold stores. His direct answer to the question from the Tribunal regarding what adjustment a hypothetical tenant might make to reflect the change in circumstances at the relevant date assisted the Tribunal greatly and reflects well on the professionalism of both himselfand the Valuation Office.

Determination:

Having regard to the above and taking into account all the evidence and arguments adduced at the oral hearing the Tribunal determines the rateable valuation of the subject hereditament to be £1,360 calculated as set out below.

Cold Stores	
Stages 1, 2, 3	71,836 sq.ft. @ £2.10 psf = £150,855
Cold Store	
Stage 4	27,728 sq.ft. @ £2.50 psf = £ 69,320
Covered Loading Yard	29,240 sq.ft. @ £1.20 psf = £ 35,088
Plant Room	4,600 sq.ft. @ £1.25 psf = £ 5,750
Offices	1,945 sq.ft. @ £2.50 psf = £ 4,863
Blast Freezers	2,479 sq.ft. @ £2.50 psf = £ 6,198
	£272,074

NAV Say £272,000 @ 0.5% = **£1,360.**