Appeal No. VA92/2/004

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Slane Seed and Grain Company Limited **APPELLANT**

and

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ommissioner of Valuation **RESPONDENT**

RE: Grain Stores and Land at Lot No. 10D Townland of Monknewtown, E.D. Mellifont, District of Meath, Co. Meath
Plant and Machinery, Quantum

B E F O R E
Henry Abbott **S.C. Chairman**

Padraig Connellan **Solicitor**

Veronica Gates **Barrister**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JULY, 1993

By Notice of Appeal dated the 9th of March, 1992 the appellants appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £270 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that " the valuation is excessive and inequitable".

The Property

The property consists of a grain store and handling facility. It is located in a rural setting approximately 3 miles from the town of Slane on a side road off the Slane/Drogheda Road. Formerly, the premises was used as an agricultural supplies outlet and an in-take point for seed grain. At the time of revision the property was used as a grain drying and storage facility and yard.

Valuation History

At 1970 first appeal, the rateable valuation was fixed at R.V. £50. The premises was extended over the years and was next revised during the 1990 revision when the R.V. was increased to £270. The occupier appealed against this valuation to the Commissioner of Valuation and no change was made to the R.V..

Written Submissions

Both parties submitted a precis of evidence. The appellant's precis is dated June, 1991 and was received by the Tribunal in June, 1992 and the respondent's precis was received on the 26th May, 1992. In these precis the approaches of the valuers to the valuation of the subject premises were set out in detail. These precis are appended to this judgment as Appendices 1 & 2.

Oral Hearing

The oral hearing commenced in Dublin on the 12th June, 1992. Mr. Hugh O'Neill Barrister-at-Law, instructed by Arthur Cox, Solicitors appeared for the appellant and Mr. Andrais O'Caoimh Barrister-at-Law, instructed by the Chief State Solicitor appeared for the respondent. From the outset the appellant emphasised the approach set out in the precis in defence of a valuation of £68 which was essentially based upon the Asset Sale Agreement made between L. Grant & Company Limited, the appellants and Avonmore Foods Public Limited Company. Under this asset sale agreement Avonmore purchased the property together with Garristown. There is also a supply agreement tying Avonmore to Goulding Chemicals Limited in relation to the purchase and sale of fertiliser. These agreements are annexed hereto as Appendix 3.

Mr. Donal O'Buachalla of Donal O'Buachalla & Company Limited, Valuer with many years experience gave evidence and emphasised the importance of the capital cost method of valuation based on the asset sale agreement and extracted prices therefrom. He emphasised the changes which had taken place in the grain industry in recent years relevant to the premises and referred to the report of Grain Tech Limited dated the 9th June, 1992 annexed hereto as Appendix 4, which highlights the various items of bins and other equipment in terms of disposal value in

respect of the Garristown and Slane properties. Evidence was also given by Mr. Michael Clarke, Local Manager of the Slane and Garristown operations and he stated that the retail end of the trade had finished completely and that the seed handling business had been taken away from the subject. There remained only a storage function for the subject. A considerable debate ensued in relation to the extent of the plant and equipment being valued, with Mr. O'Caoimh alleging that by reason of the application of a case decided prior to the application of the 1986 Act, **Denis Coakley & Company Limited -V- Commissioner of Valuation** (1991) I.R. Vol. 2, 402, all items of plant in the premises should be disclosed by the appellants to the respondent.

The appeal was adjourned and resumed again on the 26th April, 1993 and for a full hearing on the 12th July, 1993 when Mr. Fintan Hurley Barrister-at-Law, instructed by Arthur Cox appeared for the appellant. By this stage the parties had exchanged letters and further resumes in relation to the items of plant and machinery and the general valuation approach, which said documentation is annex hereto and collectively referred to as Appendix 5. These documents contain the report and financial statements of Slane Seed & Grain Company Limited for the periods ended 31st December, 1988 and 31st December, 1989, and also a hand written schedule of buildings and a submission setting out the actual user of the premises in relation to tonnage stored. A table of grain intake is contained in page 3 of the document headed Avonmore Slane Rates Appeal, 12th July, 1993.

Evidence was given by Mr. David Griffin, Audit Manager of Price Waterhouse and previously Audit Manager, R & H Hall in relation to the trading experience of the premises prior to purchase by the appellants. Further evidence in this regard and in regard to the Asset Sale Agreement was given by Mr. Bergin who is the Avonmore Divisional Accountant. Mr. Killen further developed in evidence the approach in extracting an N.A.V. from the purchase price to be taken from the Asset Sale Agreement. Mr. Killen gave further evidence in relation to the comparisons.

While the Tribunal has considered the impact of the Asset Sale Agreement with suitable adjustments as being a transaction which is *bona fide,* nevertheless the Tribunal was very strongly moved by the fact that since acquisition by Avonmore the storage capacity of the premises in respect of barley has been fully taken up. The premises now stores some barley for intervention which represents a steady type of market and also Avonmore make fairly intensive use of the property in relation to their own storage requirements. While the Tribunal accepts that the departure of the farm retail business, with the resultant reduction in grain seed storage requirements, has lessened the value of the property, it does not accept that the property is

without value. Perhaps the rule of thumb methods used by the Commissioner of Valuation while valid in respect of so many areas do not adequately reflect the fact that there has been a change in tempo of the business being done in this centre. Mr. Hurley urged the Tribunal to consider the premises in terms of the Cork and Dublin Port side Developments in respect of which the Tribunal had decreased the valuation quite considerably. However, the Tribunal distinguishes the cases of the Dublin and Cork facilities by reason of the fact that the same had to grapple with a steady flow of exotics for which many of their machines and vessels were not adequately equipped. The Tribunal considers that these Dublin and Cork cases are not appropriate, as there seems to be no substantial trade in the exotics in the subject, nor would there be the same type of pressure to handle exotics arising from a port side location and change in international trading patterns. While the premises may not be located in the most intensive tillage area of the east, it nevertheless does not have the disadvantage of a city environment prohibiting harvest intake activity such as suffered by the Dublin and Cork ports.

Mr. O'Caoimh pressed very strongly to have the various items of equipment separately valued on the basis of the Denis Coakley case applied to the 1986 and 1988 Legislation. The Tribunal finds that it is not necessary to consider any implications of Coakley by reason of the fact that it is constrained in any event to value the subject premises on the basis of *rebus sic stantibus*. The Tribunal finds that the grain bins and storage facilities would not be adequate without connecting ducts and fans to facilitate the speedy loading and unloading of the facilities. The Tribunal is, therefore, not making any finding in relation to the applicability of the Coakley case. However, in so deciding, the Tribunal does not wish the issue to be finally decided, and would consider the Coakley case in the event of more "stand alone" fittings and equipment being involved. The Tribunal also holds that while the trade has reduced in the premises it is not bound by the accounting convention of the owners of the subject in relation to apportioned income and the Tribunal must value the premises as it stands. The Tribunal, while accepting that the general method including some of the rule of thumb approaches of Mr. Berkery have a wide application to similar premises throughout the country, considers that having regard to the comparisons and all the circumstances (particularly that the premises have moved from active retail handling to backup storage) the rateable valuation ought to be reduced to £190 with lands relating to the premises being valued as before at £1.50. The total valuation as found is therefore £191.50.

The Tribunal may be addressed in relation to costs but it is of the view that notwithstanding the long time taken in this case, no order as to costs should be given. The appeal could have been completed in a shorter period. However, if the parties wish to address the Tribunal further in this matter they may do so by written submission to be considered by the Tribunal.