



UNLOCKING OPPORTUNITY IN COLD STORAGE DEVELOPMENT: LEGAL STRATEGY FOR A HIGH-STAKES MARKET

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The cold storage sector has quietly become one of the most sought-after opportunities in commercial real estate. As e-commerce grocery, pharmaceutical distribution, and fresh food logistics evolve, demand for temperature-controlled warehousing is surging. “U.S. cold storage construction is projected to reach \$18.6 billion by 2027, growing at nearly 14% annually.”¹ Developers and investors have taken notice, targeting sites near population centers and logistics corridors that can support this critical infrastructure.

In New York State, Long Island, Westchester County, and the Hudson Valley offer strong prospects due to their access to dense urban markets, proximity to ports, and growing residential populations. However, these are also among the most challenging environments in which to build.

Why Cold Storage—and Why Now?

The numbers speak volumes. “Online grocery sales are projected to account for 21.5% of U.S. grocery sales in 2025, up from just 13% in 2021.”² In 2021, refrigerated and frozen food categories saw 58% year-over-year growth in the e-commerce space.³ According to CBRE, U.S. cold storage real estate exceeds 214 million square feet, with vacancy rates consistently under 4% - still insufficient to meet current demand.⁴

Institutional interest is growing. CBRE’s 2022 U.S. Investor Survey shows that 40% of respondents are targeting cold storage assets, compared to just 7% in 2019.⁵ The reasons are clear:

¹ *How Demand for Fresh Food is Squeezing Cold Storage Space*, JLL (May 20, 2021), <https://www.jll.co.uk/en/trends-and-insights/investor/how-demand-for-fresh-food-is-squeezing-cold-storage-space#:~:text=The%20demand%20is%20prompting%20developers,to%20consulting%20firm%20Emergen%20Research.>

² *Cold Storage Demand Grows Amid Tailwinds*, CBRE (June 27, 2022), <https://www.cbre.com/insights/articles/cold-storage-demand-grows-amid-tailwinds.>

³ *Id.*

⁴ *Cold Storage Industry Review*, ELMTREE FUNDS at p. 2 (July 2019), <https://elmtreefunds.wpenginepowered.com/wp-content/uploads/2020/07/Cold-Storage-July-2019-Newsletter.pdf>.

⁵ *Supra* n. 2.

cold storage leases are typically long-term (15–30 years), stable across economic cycles and offer higher yields than conventional warehouse space.

However, nearly 80% of U.S. cold storage inventory was built before 2000.⁶ These older facilities often lack the ceiling heights, energy efficiency, and racking systems required by today’s users.⁷

Specialized Facilities, Unique Challenges

Cold storage warehouses are not conventional industrial buildings. They often require two to three times the investment of a standard warehouse and can take six months longer to build. Construction costs typically range from \$130 to \$180 per square foot, depending on whether the space is designed for cooling or freezing.⁸

These facilities demand high clear heights (often exceeding 50 feet), reinforced slabs, backup power, and specialized mechanical systems for climate control.⁹ Operationally, they are energy intensive. Developers must account for automation infrastructure and energy consumption levels that far exceed conventional logistics centers.¹⁰ Energy costs alone can represent 25% or more of total operating expenses.¹¹ Technologies like automation, insulation and energy efficiency technologies like solar panels and water reclamation systems are no longer optional, they're standard.¹² However, these innovations further drive-up upfront capital costs and regulatory complexity.

Pre-leasing is typically essential, as few lenders will finance cold storage projects without committed tenants.¹³ Developers often work with major operators on build-to-suit deals, in which the operator leases the full building and sublets pallet space to smaller users.¹⁴ This model provides long-term revenue stability but requires careful structuring of leases, utility agreements, and capital planning.¹⁵

⁶ *Cold Storage in the Post-COVID Economy*, JLL (Sept. 16, 2020), <https://www.jll.ca/en/trends-and-insights/research/cold-storage-in-the-post-covid-economy>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*; David Winzelberg, *Long Island Demand for Cold Storage Heats Up*, LONG ISLAND BUS. NEWS (Aug. 13, 2024), available at <https://libn.com/2024/08/13/long-island-demand-for-cold-storage-heats-up/>.

¹⁰ *Supra* n.6

¹¹ Berkeley Partners, *The Case for Cold Storage*, at 5 (Aug. 2018), <https://berkeleypartners.squarespace.com/s/Berkeley-Partners-Cold-Storage-White-Paper.pdf>; *Supra* n.6.

¹² *Five Ways Cold Storage Is Keeping Pace with Modern Life*, JLL Singapore (June 25, 2021), <https://www.jll.com.sg/en/trends-and-insights/cities/five-ways-cold-storage-is-keeping-pace-with-modern-life>; *Cold Storage: A Real Estate Perspective*, Connect CRE (June 13, 2018), <https://www.connectcre.com/stories/cold-storage-a-real-estate-perspective/>.

¹³ *Supra* n.2.

¹⁴ *Cold Storage*, Connect CRE (2018).

¹⁵ *Id.*

Why the New York / Long Island Region?

Long Island, Westchester County, and the Hudson Valley are attractive to cold storage developers due to their access to urban markets, ports, and residential growth.¹⁶ However, they are also some of the most challenging areas in the country for securing development approvals.

Long Island, in particular, is a hotspot due to its limited industrial supply and expanding last-mile delivery networks.¹⁷ Projects such as the ARES Black Creek Bellport cold storage warehouse and Amazon's growing warehouse footprint built by Hartz Mountain in Melville demonstrate increasing demand across Nassau and Suffolk Counties.¹⁸ According to CBRE, Long Island's industrial vacancy rate dropped to 2.7% in 2021, while asking rents surged to a record \$13.11 per square foot.¹⁹ More than 18 million square feet of warehouse space has been proposed, including 7 million in the Town of Brookhaven alone.²⁰

However, this growth has triggered regulatory pushback. Towns such as Brookhaven and Riverhead have enacted moratoriums on warehouse projects exceeding 100,000 square feet.²¹ These actions reflect concerns about overdevelopment, infrastructure strain, and compatibility with surrounding land uses.²² Cold storage - due to its 24/7 operations and significant power and traffic demands—is especially scrutinized.

Westchester and the Hudson Valley are also poised for growth as population and logistics demand expands. Yet, these regions often lack zoning classifications for distribution centers, requiring community engagement and negotiation to secure approvals.

As one of the few firms deeply experienced in industrial land use law across all downstate counties, we help developers identify viable sites, navigate complex review processes, and manage public perception - critical for introducing cold storage into residential or historically agrarian communities.

¹⁶ *Supra* n.6

¹⁷ David Winzelberg, *Long Island's Industrial Revolution*, LONG ISLAND BUS. NEWS (Mar. 4, 2022), <https://libn.com/2022/03/04/long-islands-industrial-revolution/>; James T. Madore, *Amazon Plans Ninth Warehouse on Long Island for 'Last-Mile' Deliveries to Consumers*, NEWSDAY (Aug. 22, 2024), <https://www.newsday.com/business/amazon-warehouse-delivery-tkeelimu>.

¹⁸ Winzelberg, *Long Island's Industrial Revolution*, LONG ISLAND BUS. NEWS (Mar. 4, 2022).; David Winzelberg, *MRA Closes \$12.6M Deal for Bayport Cold Storage Complex*, LONG ISLAND BUS. NEWS (Feb. 15, 2024), <https://libn.com/2024/02/15/mra-closes-12-6m-deal-for-bayport-cold-storage-complex/>.

¹⁹ *Supra* n.17.

²⁰ James T. Madore, *Demand from Amazon, Others Are Fueling Plans for 18 million Square Feet of New Warehouses on Long Island*, NEWSDAY (Sept. 28, 2024), <https://www.newsday.com/business/warehouses-jobs-moratoriums-ya3yaykb>.

²¹ *Id.*

²² *Id.*

Development Realities

Local zoning regulations frequently fail to recognize cold storage as a permitted use. Many Long Island codes were written decades ago for light manufacturing or distribution, creating a myriad of discretionary zoning approvals, SEQRA review and community engagement requirements for cold storage warehouses.²³ Given that most municipalities treat cold storage as a high-intensity industrial use, developers must be prepared to address heightened scrutiny at every step of the zoning process. Even in zones where cold storage is permitted by right, bulk standards—like building height limits, impervious surface coverage, and setbacks - can constrain designs. Modern cold storage facilities require taller structures, more lot coverage, and higher utility capacity, which often necessitate variances, special permits, or site plan amendments.

In Towns like Islip and Huntington, approvals may involve multiple layers: special permits, variances, subdivision coordination, and environmental review. Projects are also subject to SEQRA, which requires detailed analyses of traffic, lighting, noise, environmental and utility impacts. Incomplete or substandard submissions risk delay or denial.

At Brown Altman, LLP, we have guided numerous developers through these hurdles. Our team works with planning boards, zoning boards of appeal, and both in-house and outside municipal attorneys to structure creative solutions, defend project applications, and coordinate with engineers, planners, traffic engineers, real estate appraisers and environmental consultants to ensure that applications are complete, defensible, and approvable.

Legal Guidance: A Necessity, Not a Luxury

Legal strategy is vital in this high-stakes environment. Developers must not only understand zoning codes but also anticipate the political and practical challenges of each proposal.

At Brown Altman, LLP, we bring deep regional knowledge and industrial land use expertise to help cold storage developers succeed in high-barrier markets. We assist from the earliest stages: advising on site selection, preparing zoning and SEQRA analyses, coordinating zoning strategies, and representing projects before planning and zoning boards.

We support you at every stage:

- **Zoning Strategy & Land Use Approvals:**
We decode outdated zoning codes, secure necessary variances, special permits, and text amendments.

²³ *Supra* n.17.

- **Zoning and Land Use Expertise:** We interpret complex zoning codes and craft legal strategies that align cold storage uses with local regulations or obtain the necessary approvals when they do not.
- **Municipal Relationships:** Our attorneys have long-standing working relationships with town and village boards, planning departments, and local counsel, allowing us to anticipate issues and negotiate from a position of trust and familiarity.
- **Environmental and SEQRA Compliance:** We manage the full environmental review process, preparing detailed submissions that reduce litigation risk and address community concerns.
- **Community Engagement:** We guide clients through public hearings and help craft community benefits strategies that build local support and mitigate opposition.
- **Project Coordination:** We collaborate closely with engineers, architects, and consultants to ensure that legal strategy aligns with design and operational goals.

Our deep understanding of local procedures and infrastructure demands—ranging from utility access to truck circulation - enables us to position cold storage projects for success. In an era of growing municipal scrutiny over traffic, energy use, and neighborhood impacts, developers must do more than submit strong applications—they must demonstrate how their projects advance local goals, from job creation to public health and food security.

Cold storage is no longer niche - it is essential infrastructure. But success in New York's most competitive markets requires more than a good site and tenant. It requires tailored legal strategy, local credibility, and intimate knowledge of the development landscape.

At Brown Altman, LLP, we are proud to be at the forefront of this sector's transformation. Our team has supported industrial development across Long Island, Westchester, and the Hudson Valley. We are uniquely positioned to help developers bring cold storage facilities to market—efficiently, compliantly, and with long-term value.

About

Brown Altman provides clients in the real estate and development industries with comprehensive legal services, including financing, leasing, zoning, environmental, real property, administrative, and construction law. For more information, visit www.BrownAltman.com or email kbda@brownaltman.com.