

1 Petitioner filed a timely 2020 petition for reassessment, initially requesting a value of
2 \$3,400,000. (Petitioner's BOE-529-B.) In fulfillment of a validity request, Petitioner submitted an
3 appraisal report prepared by Loop Capital (Petition Valuation), dated October 5, 2020, with a revised
4 requested value of \$4,662,000, after the 4-R Act ratio was applied, applying the Cost approach to
5 value.⁴

6 In comparing the Petitioner's submitted appraisal with the underlying assessment, four primary
7 issues were present: 1) Whether SAPD correctly determined Petitioner's Reproduction Cost New
8 (ReproCN) and depreciation for its facility; 2) Whether SAPD fully accounted for all obsolescence
9 present in Petitioner's property; 3) Whether SAPD overstated asset costs reported in Petitioner's 2020
10 Property Statement, resulting in an overassessment; and 4) Whether the penalty applied to Petitioner's
11 assessment should be abated.

12 At the November 16, 2020 Appeals Conference, the parties discussed the issues in the petition.
13 The parties were able to reach agreement on what would have been Issue 4 by agreeing that the penalty
14 applied to Petitioner's Board-adopted value should be abated.⁵ (Note: Respondent's Appeal
15 Recommendation reflects this agreement.) At the close of the Appeals Conference, Petitioner
16 maintains their submitted appraisal is a better indicator of value than the Board-adopted value that
17 Respondent calculated. Respondent does not recommend further adjustment to the 2020 Board-adopted
18 value.

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23 ⁴ Note, no value attributable to Petitioner's facility's underlying land appears to be included within the appraisal, as the
24 valuation appears to solely focus on Petitioner's Personal Property and Improvements. However, Petitioner's appraisal
25 states, "[t]he value estimate pertains to land, buildings, and other improvements considered real estate as listed within the
26 report. Furniture fixtures and personal property in general are not included value estimate." (Petitioner's Valuation, p. 38.)
27 The Appeals Attorney notes this inconsistency within the submitted appraisal, and views Respondent's sales approach to
28 the land value within Petitioner's 2020 Board-adopted value as unchallenged within the scope of this petition.
⁵ Petitioner filed its 2020 property statement after the timely filing deadline. As required by Rev. & Tax. Code, section 830,
Respondent assessed a penalty of \$683,839, which was inadvertently reflected as a part of the 2020 Board-adopted value,
instead of being separately identified as a penalty assessment. As Respondent acknowledges that the penalty was not
identifiable due to this processing error and Petitioner has had no opportunity to timely file an abatement appeal,
Respondent is recommending the abatement of the penalty. Petitioner agreed as to this issue at the Appeals Conference.
The Appeals Attorney finds that the agreed-to resolution of the penalty issue is supported by relevant law, the parties'
briefings, and the evidentiary record of this petition, consistent with her recommendation for Board grant the petition, in
part. (See Appeals Attorney's Recommendation p. 2.)

ISSUE 1**Whether Petitioner Has Shown That Respondent Erred in Calculating the ReprCN and Depreciation Within Respondent’s ReprCLD Value Indicator.****Petitioner’s Contentions**

Petitioner bases its revised requested value on the appraisal report prepared by Loop Capital and appears to assert that Respondent’s ReprCN is overstated. (See Petition Valuation.) The appraisal states it was performed in accordance with “California Assessors’ Handbook, California Assessors’ Advanced Handbook, Business Assessment Factors California Assessors’ Association (CAA) Position Paper 20-001, Marshall Valuation Service and other appropriate valuation guidelines.” (Petition Valuation, p. 2.) The appraisal appears to use CAA trend factors from section 1, Tables 1 (Commercial Equipment), 2 (Industrial Equipment), and 3 (Agricultural and Construction Equipment). (Petition Valuation, pp. 14-17.) The appraisal then adjusts physical deterioration (depreciation) and obsolescence by applying Assessors Handbook, section 581’s (AH 581) Table 4(Machinery and Equipment Percent Good Factors), and other tables labeled: Table 4a (Commercial Percent Good Factors), Table 4b (Industrial Percent Good Factors), and Table 7 (Non-production Computer Valuation Factors). (Petition Valuation, pp. 17-27.) Then, pursuant to the “California Rules,” to account for normal technological change over time, the appraisal applies the maximum equipment index factor, which is the factor for an age equal to 125 percent (125% Factor) of the estimated average service life. (Petition Valuation, pp. 26-27.) Based on these steps in Petitioner’s appraisal, Petitioner asserts it has more correctly approximated their property’s ReprCN.

Respondent’s Contentions

Respondent contends it calculated the ReprCLD value indicator consistent with relevant appraisal guidance and Property Tax Rule⁶ 6. First, Respondent calculated the ReprCN by applying an index factor (also known as a “trend factor”) to the historical acquisition cost of the property, segregated by year of acquisition. (SAPD Analysis, p. 2.) Then, Respondent adjusted the ReprCN for all forms of depreciation, by applying the percent good factor. (SAPD Analysis, p. 2; See St. Bd. of Equal., *Unitary Valuations Methods* (UVM), (March 2003), p. 11.) Respondent notes when applying

⁶ References to “Property Tax Rules” or “Rule(s)” are to sections of title 18 of the California Code of Regulations.

1 index and percent good factors, it is sometimes appropriate for appraisers to apply a 125 percent
2 maximum age factor (125% Factor) to account for normal technological change that limits a property's
3 service life. (SAPD Analysis, p. 2.)

4 Respondent notes that the Board also annually publishes ReprCN trend factors study for use in
5 the state-assessment of property.⁷

6 In response to the issues raised in the petition, Respondent asserts that Petitioner's appraisal
7 uses incorrect index factors and percent good factors that are not appropriate for tank and railcar
8 maintenance and repair property.

9 **First**, while the Board annually publishes Assessors' Handbook section 581 (AH 581),
10 *Equipment and Fixtures Index, Percent Good, and Valuation Factors* to promote uniformity in
11 appraisal practices and assessed values throughout the state of California, AH 581 is designed to be
12 used in appraising county-assessed properties, not state-assessed properties. (SAPD Analysis, p. 2.)
13 Further, Respondent asserts that the county-assessed applicability is clear from AH 581's Forward.
14 (*Ibid.*) Accordingly, Respondent contends index and percent good factor tables used from AH 581 are
15 not appropriate or more reliable than those utilized in Respondent's ReprCN calculation, as the AH
16 581 factor tables were designed to be used in county-assessment.

17 **Second**, while the California Assessor's Association annually publishes a position paper with
18 index and percent good factor tables, this annual position paper is similarly designed for primary use
19 with county-assessed properties, not state-assessed properties. Respondent notes the Forward to CAA
20 Position Paper 20-001 explains that the document is for use by *California (i.e. County) Assessors* in
21 mass appraisal. (SAPD Analysis, p. 3.) Accordingly, Respondent reasserts that the appropriate index
22 factors for Petitioner's type of property are those published by the Board, in its 2020 ReprCN Trend
23 Factor study, which are more specific to railroad equipment. (*Ibid.*)

24 Respondent also contends Petitioner's appraisal inappropriately applied the maximum age
25 factor under the incorrect assertion that the 125% Factor is a "California Rule." (SAPD Analysis, p. 3.)
26 Respondent notes that while the 125% Factor is present in appraisal guidance "recommended" in both
27 AH 581 and the CAA Factors, it is not a concept that is mandatory or appropriate in every instance, as
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⁷ The 2020 SAPD ReprCN Factors is available at <<https://www.boe.ca.gov/proptaxes/pdf/rcnfactors.pdf>> [Accessed December 3, 2020.]

1 it depends upon the specific nature of the property asset(s) at issue. (*Ibid.*) Consistent with
2 Respondent's earlier assertions, Petitioner's specific property at issue is not covered in AH 581 or the
3 CAA Factors, as they are intended for appraisal of county-assessed properties (*Ibid.*) Instead,
4 Respondent contends Petitioner's property is more appropriately covered by SAPD's 2020 Trend
5 Factors, which do not recommend use of the 125% Factor. (*Ibid.*)

6 For these reasons, Respondent does not recommend any adjustment be made to Petitioner's
7 2020 Board-adopted value based on this issue.

8 **Appeals Conference**

9 At the Appeals Conference on November 16, 2020, Petitioner explained the approach taken in
10 its submitted appraisal. Respondent reasserted the appraisal flaws previously stated in the SAPD
11 Analysis. Respondent reaffirmed that various data sources go in to the preparation of the annual
12 ReproCN factor study, many of which go beyond the sources used in factor tables prepared for county-
13 assessed properties and are more appropriate for Petitioner's type of property, i.e. not a generalized
14 commercial property factor table that would also cover average retail stores across the state, instead of
15 factors specified to Petitioner's specific industry, railcar maintenance and storage. Accordingly,
16 Respondent reaffirmed that it does not recommend any adjustment be made to Petitioner's ReproCN
17 calculation. While Petitioner's representative and appraiser acknowledged that the 125% Factor was
18 not in fact a "rule," Petitioner maintained that its usage was appropriate for Petitioner's property.
19 Further, Petitioner maintained that their ReproCN calculation was more accurate than Respondent's
20 overstated ReproCN.

21 **Applicable Law and Appraisal Principles**

22 **Burden of Proof**

23 Assessing officers are presumed to have properly performed their duties. (Evid. Code, § 664.)
24 Therefore, Petitioner has the burden of showing that the assessment is incorrect or illegal. (*ITT World*
25 *Communications v. Santa Clara* (1980) 101 Cal.App.3d 246; see also Cal. Code Regs., tit. 18, § 5541,
26 subd. (a).)

27 **Value Standard**

28 Property Tax Rule 2, subdivision (a) states that "in addition to the meaning ascribed to them in

1 the Revenue and Taxation Code, the words “full value,” “full cash value,” “cash value,” “actual
2 value,” and “fair market value” mean the price at which a property, if exposed for sale in the open
3 market with a reasonable time for the seller to find a purchaser, would transfer for cash or its
4 equivalent under prevailing market conditions between parties who have knowledge of the uses to
5 which the property may be put, both seeking to maximize their gains and neither being in a position to
6 take advantage of the exigencies of the other.”

7 **The Reproduction Cost Approach to Value**

8 Property Tax Rule 6, subdivision (a) provides, in part, that: “The reproduction or replacement
9 cost approach to value . . . is preferred when neither reliable sales data . . . nor reliable income data are
10 available...” In general, the “reproduction cost of a reproducible property may be estimated either by
11 (1) adjusting the property’s original cost for price level changes and for abnormalities, if any, or (2)
12 applying current prices to the property’s labor and material components, with appropriate additions for
13 entrepreneurial services, interest on borrowed or owner-supplied funds, and other costs typically
14 incurred in bringing the property to a finished state.” (Property Tax Rule 6, subd. (b).) The resulting
15 adjusted cost is the reproduction cost new (ReproCN) which is then “reduced by the amount that such
16 cost is estimated to exceed the current value of the reproducible property by reason of physical
17 deterioration, misplacement, over or under improvement, and other forms of depreciation or
18 obsolescence.” (Property Tax Rule 6, subd. (e); UVM, pp. 23-24.)

19 **Reproduction Cost New**

20 The Reproduction Cost New (ReproCN) is an estimate of the current cost to replace a property
21 with an *exact replica*, or virtually so, of the existing property, which should include all economic
22 costs necessary to put the property to productive and beneficial use. The ReproCN is calculated by
23 applying an index factor, which is acquired from industry data, to the historical acquisition cost of the
24 property of the assessee, segregated by year of acquisition. The use of index factors applied to
25 historical cost data is the preferred method of calculating the ReproCN. The historical cost of
26 property is adjusted for normal depreciation by the application of a percent good factor to the
27 ReproCN. (UVM, p. 11.)

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1 **Depreciation and the Reproduction Cost Approach**

2 In general, the ReproCLD value indicator recognizes three types of depreciation: physical
3 deterioration, functional obsolescence, and external or economic obsolescence, through application of
4 the Board's "percent" good factors. Obsolescence may occur when property is outmoded (functional
5 obsolescence) or when some event has substantially diminished the future earning power of the
6 property (economic obsolescence). (*See* Assessors' Handbook section 501, *Basic Appraisal* (January
7 2002), pp. 81-83.) Functional obsolescence is the loss of value in a property caused by the property's
8 loss of capacity to perform the function for which it was intended. (*Id.* at p. 81.) Economic
9 obsolescence is the diminished utility of a property due to adverse factors external to the property
10 being appraised and is incurable by the property owner. (*Id.* at p. 82.)

11 The percent good factors, the basis for adjusting the ReproCN into an indicator of fair market
12 value, are used to determine the remaining value of a property and are complements of physical
13 deterioration and functional obsolescence. The factors used for a given property type are based on the
14 expected economic life of that property type which is based on a service life study that surveys
15 industry participants who own that type of property. (*UVM*, p. 11.)

16 **Appeals Attorney's Analysis and Comments**

17 Respondent is presumed to have correctly determined the value of the property at issue, and
18 Petitioner bears the burden of proving otherwise. Here, Petitioner contends that Respondent's
19 calculated ReproCN is overstated, and that Respondent should instead adopt the ReproCN within
20 Petitioner's submitted appraisal to calculate their ReproCLD value indicator. Specifically, the issue is
21 whether the trend and percent good factor tables and the application of the 150% factor utilized within
22 Petitioner's submitted appraisal are more appropriate than Respondent's ReproCN calculation, as
23 utilized within Petitioner's 2020 Board-adopted value.

24 With respect to the trend and percent good factor tables, Petitioner requesting Respondent
25 utilizing factor tables from AH 581 and the annual CAA Position Paper instead of Respondent's
26 utilized factor tables in the ReproCN calculation. However, Petitioner has provided no evidence or
27 argument to show that Respondent erred in its calculation of the ReproCN, which utilizes Petitioner's
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1 originally reported data from its 2020 Property Statement and the State-Assessed ReproCN trend and
2 percent good factor tables. Instead, Petitioner’s requested calculation applies AH 581 and CAA trend
3 and percent good factors tables, intended for use in county-assessed properties. As Respondent has
4 pointed out, Petitioner has provided no argument or evidence to support why such generalized
5 commercial and industrial factor tables are more appropriate than the factor tables the Board has
6 published for the appraisal State-Assessed properties.⁸ At the hearing, the parties should be prepared to
7 address why the trend and percent good factor tables utilized are more appropriate to assess
8 Petitioner’s tank and railcar maintenance and repair facility; specifically, Petitioner should be prepared
9 to address why their requested factor tables are more appropriate than the factor tables Respondent
10 utilized.

11 With respect to the application of the 125% factor, Petitioner asserts that AH 581 and the CAA
12 Position Paper support the application of the 125% factor “Rule” in the assessment of all of
13 Petitioner’s assets. Petitioner asserts this is to account for “normal” technological change over time.
14 However, as Respondent points out, depending on the nature of the property at issue, at times the
15 application of the 125% Factor is *recommended* in county-assessment; however, Petitioner’s appraisal
16 blanket applies this factor without regard to the technological nature of the underlying personal
17 property, which is not an approach recommended by the Board for state-assessed properties. Here,
18 Petitioner has provided no specific argument to apply the 125% factor to its assets that would support
19 the need to adjust for technological advancement specific to Petitioner’s type of assets. Respondent
20 contends that based on the nature of Petitioner’s tank and railcar miniatous repair facility assets, the
21 use of the 125% Factor would be inappropriate. At the hearing, the parties should be prepared to
22 address whether the 125% Factor can be appropriately applied to Petitioner’s property; specifically,
23 Petitioner should address and support why they view a blanket application of the 125% Factor as
24 appropriate and how their specific asset categories are of nature where technological advances would
25 impair the value of its assets, justifying use of the 125% Factor.

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⁸ State-assessed factors are based on data from similar industry property, including specific factors designed for railcar property, are much more specific than, for example, a generalized commercial property factor table used in county assessment, which is designed to cover a wide range commercial property, including hotels, retail, etc.

ISSUE 2**Whether Petitioner Has Shown That Respondent Failed to Account for All Obsolescence in Petitioner's 2020 Board Adopted Value.****Petitioner's Contentions**

Petitioner's submitted appraisal asserts there is additional economic obsolescence that has not been recognized in Respondent's ReproCLD value indicator. In adjusting for economic obsolescence, the appraisal utilizes the Federal Reserve Industrial Production and Capacity Utilization Table-G.17, Q4 2019's capacity utilization of 75% to calculate an inutility adjustment of 18.24 percent. (Petition Valuation, p. 27.)⁹ This "inutility penalty" is then applied to Petitioner's "improvements" and "personal property." (Petition Valuation, pp. 28-34.)¹⁰

Petitioner also generally cites that its business is tied to US freight volumes, the industrial production index (IPI), US oil and gas production index, external competition in the rail transportation industry, and total trade value (Petition Valuation, p. 6-7.) Petitioner states "the demand for tank car leases is forecast[ed] to remain relatively elevated" in the next five years, but "weaker demand for coal transportation are also forecast[ed] to slow industry growth." (*Id.* at 8.) Based on relevant trends, the appraisal notes "industry revenue is expected to increase at an annualized rate pf 2.1% to 5.9 billion" over the next five years. (*Ibid.*)

Respondent's Contentions

Respondent notes Petitioner claims additional economic obsolescence exists in Petitioner's property; however, Respondent asserts that Petitioner fails to explain or justify the use of such an adjustment other than the submission of its requested inutility adjustment. (SAPD Analysis, p. 4.) Respondent contends such an adjustment would be inappropriate for several reasons; specifically, the capacity and scale factors used to support Petitioner's inutility calculation lack support or are inappropriate.

First, Respondent contends that Petitioner's inutility calculation fails to provide any

⁹ Petitioner provides no explanation as to why this capacity utilization factor is an appropriate comparison to the underlying property at issue.

¹⁰ The Appeals Attorney notes that Petitioner has applied this inutility adjustment without explanation as to why the assets identified should have the inutility penalty applied; additionally, Petitioner's Valuation solely includes general descriptions of the assets to which it is applying the inutility adjustment, i.e. "improvements" or "personal property" making it unclear why these "improvement" and "personal property" assets were identified for such an adjustment.

1 explanation as to why such an adjustment is appropriate for Petitioner’s property, much of which has
2 already been reduced to salvage value. (SAPD Analysis, p. 4.) Accordingly, Respondent contends
3 such a further adjustment would be objectively inappropriate.

4 Second, Respondent contends Petitioner’s appraisal provides no explanation as to why the
5 “Federal Reserve Industrial Production and Capacity Utilization Table-G.17” table is appropriate to
6 use for its property, particularly as the table includes information applicable to manufacturing, mining,
7 and electric and gas utilities across the entire United States. (SAPD Analysis, p.4.). Accordingly,
8 Respondent contends the use of this data to support the capacity factor in Petitioner’s calculation is
9 inappropriate and not specific to the actual capacity or use of Petitioner’s property.

10 Third, Respondent contends the appropriate methodology to substantiate additional
11 obsolescence by estimating inutility would be to “Determine the actual or predicted use...and the rated
12 or expected capacity...of the property,” consistent with Board guidance.¹¹ (SAPD Analysis, p. 4.)
13 Accordingly, Respondent contends that Petitioner must provide data related to the actual capacity and
14 use of Petitioner’s property in order to determine and show whether an inutility adjustment is even
15 appropriate for Petitioner’s property.

16 Finally, Respondent notes that Petitioner’s appraisal does not disclose what Scale Factor was
17 used in Petitioner’s requested inutility calculation. (SAPD Analysis, p. 4.) Respondent notes that the
18 scale factor selected must be applicable to the property in question and will depend on the underlying
19 type of equipment and labor/material ratios.¹²

20 Based on these factors, Respondent contends that Petitioner’s Appraisal reduces the value of
21 property by an additional 18.24% without explaining how the reduction was calculated or why
22 elements of that calculation are appropriate for the property, despite much of Petitioner’s property
23 already being valued at salvage value. (SAPD Analysis, pp. 4-5.) Respondent maintains that its
24 ReproCLD value indicator calculation accurately values Petitioner’s Property. Therefore, Respondent
25 contends no further adjustment is warranted.

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¹¹ Quoting *Guidelines for Substantiating Additional Obsolescence for State-Assessed Telecommunication’s Properties*
(*Guidelines*), p. 4.

¹² *Guidelines*, p. 5.

1 **Appeals Conference**

2 At the Appeals Conference on November 16, 2020, Petitioner explained the approach taken in
3 its submitted appraisal, and confirmed a 0.7 scale factor was used within its requested inutility
4 calculation, based on an average of typical factories used in the industry (.06-.08). Petitioner reasserted
5 that it viewed the Federal Reserve data as an appropriate basis for an inutility adjustment. Petitioner
6 also generally cited COVID and the “oil implosion” that has occurred from 2017 to present was
7 generally affecting the value and utilization of its property.¹³ Respondent reasserted that applying an
8 inutility adjustment lacked support and a specific relationship to Petitioner’s facility’s actual capacity
9 or use. Respondent also contended that for State-Assessed property, scale factors are typically much
10 lower. Respondent concluded by reaffirming its belief that no further adjustment is warranted.

11 **Applicable Law and Appraisal Principles**

12 **Burden of Proof**

13 Assessing officers are presumed to have properly performed their duties. (Evid. Code, § 664.)
14 Therefore, Petitioner has the burden of showing that the assessment is incorrect or illegal. (*ITT World*
15 *Communications v. Santa Clara* (1980) 101 Cal.App.3d 246; see also Cal. Code Regs., tit. 18, § 5541,
16 subd. (a).)

17 **Value Standard**

18 Property Tax Rule 2, subdivision (a) states that “in addition to the meaning ascribed to them in
19 the Revenue and Taxation Code, the words “full value,” “full cash value,” “cash value,” “actual
20 value,” and “fair market value” mean the price at which a property, if exposed for sale in the open
21 market with a reasonable time for the seller to find a purchaser, would transfer for cash or its
22 equivalent under prevailing market conditions between parties who have knowledge of the uses to
23 which the property may be put, both seeking to maximize their gains and neither being in a position to
24 take advantage of the exigencies of the other.”

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28 ¹³ Note, while Petitioner generally asserted “COVID” was impacting Petitioner’s property value, the Appeals Attorney notes this is a lien date valuation, i.e. as of January 1, 2020; accordingly, absent specific evidence asserted, the economic effects of COVID-19 are not appropriately considered within the 2020 assessment, as such conditions and effects were not known as of January 1, 2020.

The Reproduction Cost Approach to Value

Property Tax Rule 6, subdivision (a) provides, in part, that: “The reproduction or replacement cost approach to value . . . is preferred when neither reliable sales data . . . nor reliable income data are available...” In general, the “reproduction cost of a reproducible property may be estimated either by (1) adjusting the property’s original cost for price level changes and for abnormalities, if any, or (2) applying current prices to the property’s labor and material components, with appropriate additions for entrepreneurial services, interest on borrowed or owner-supplied funds, and other costs typically incurred in bringing the property to a finished state.” (Property Tax Rule 6, subd. (b).) The resulting adjusted cost is the reproduction cost new (ReproCN) which is then “reduced by the amount that such cost is estimated to exceed the current value of the reproducible property by reason of physical deterioration, misplacement, over or under improvement, and other forms of depreciation or obsolescence.” (Property Tax Rule 6, subd. (e); UVM, pp. 23-24.)

Reproduction Cost New

The Reproduction Cost New (ReproCN) is an estimate of the current cost to replace a property with an *exact replica*, or virtually so, of the existing property, which should include all economic costs necessary to put the property to productive and beneficial use. The ReproCN is calculated by applying an index factor, which is acquired from industry data, to the historical acquisition cost of the property of the assessee, segregated by year of acquisition. The use of index factors applied to historical cost data is the preferred method of calculating the ReproCN. The historical cost of property is adjusted for normal depreciation by the application of a percent good factor to the ReproCN. (UVM, p. 11.)

Depreciation and the Reproduction Cost Approach

In general, the ReproCLD value indicator recognizes three types of depreciation: physical deterioration, functional obsolescence, and external or economic obsolescence, through application of the Board’s “percent” good factors. Obsolescence may occur when property is outmoded (functional obsolescence) or when some event has substantially diminished the future earning power of the property (economic obsolescence). (See Assessors’ Handbook section 501, *Basic Appraisal* (January 2002), pp. 81-83.) Functional obsolescence is the loss of value in a property caused by the property’s loss of capacity to perform the function for which it was intended. (*Id.* at p. 81.) Economic

1 obsolescence is the diminished utility of a property due to adverse factors external to the property
2 being appraised and is incurable by the property owner. (*Id.* at p. 82.)

3 The percent good factors, the basis for adjusting the ReproCN into an indicator of fair market
4 value, are used to determine the remaining value of a property and are complements of physical
5 deterioration and functional obsolescence. The factors used for a given property type are based on the
6 expected economic life of that property type which is based on a service life study that surveys
7 industry participants who own that type of property. (*UVM*, p. 11.)

8 Appeals Attorney's Analysis and Comments

9 Respondent is presumed to have correctly determined the value of the property at issue, and
10 Petitioner bears the burden of proving otherwise. Here, Petitioner contends that Respondent's
11 ReproCLD value indicator does not recognize all obsolescence present within Petitioner's property,
12 and that Respondent should reduce the ReproCLD value indicator to recognize this obsolescence, as
13 supported by Petitioner's inutility calculation based on Federal Reserve data utilizing an "average" .07
14 scale factor. Respondent contends that Petitioner's requested inutility calculation does not tie to
15 Petitioner's facility's actual capacity or use, as it is instead based on a multi-industry 50 state study,
16 bearing little relation to Petitioner's property. Further, Respondent asserts Petitioner's requested scale
17 factor is overstated compared to other California State-Assesses. Finally, Respondent contends
18 Petitioner's inutility request appears to be objectively unreasonable in light of many of Petitioner's
19 assets being already assessed at salvage value. At the hearing, the parties should be prepared to
20 discuss the issue; further, Petitioner should be prepared to explain: why the Federal Reserve multi-
21 industry capacity data is more appropriate than Petitioner's facility's own capacity and use data, which
22 has not been submitted, to date, within the context of this petition; why the scale factor of .07 is
23 appropriate for Petitioner's specific property, despite it being a much higher scale factor than typically
24 used in state-assessment; and why the inutility adjustment should be applied to all of Petitioner's
25 "Personal Property" and "Improvements" property, with detail as to why those adjustments are
26 appropriate given the lack of clarity as to the nature of the assets the inutility adjustment is being
27 applied to.

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ISSUE 3**Whether Petitioner Has Shown That Respondent Overstated Asset Costs Reported in Petitioner's 2020 Property Statement Causing an Overassessment.****Petitioner's Contentions**

Petitioner's submitted appraisal appears to assert Respondent has overstated the value of assets reported on Petitioner's 2020 Property Statement, resulting in an overassessment. Specifically, Petitioner's appraisal excludes several assets from the total value asserted by applying an asset cost of zero to specified assets, citing unrecorded asset retirements/disposal costs that had not been reflected in Petitioner's 2020 Property Statement.¹⁴ (Petitioner's Exhibit 3, Tab "Asset Listing," Column AH "Unrecorded Retirement" and "Excluded Assets"). Further, a number of spur track assets appear to be valued in an alternative methodology, using a "Direct RCN" calculation.¹⁵ Petitioner asserts Respondent should adjust its ReproCLD calculation to account for these asset retirements and the spur track assets overstatement of value.

Respondent's Contentions

Respondent contends no documentation or evidence to support its claim for asset retirements has been provided. (SAPD Analysis, p. 5.) Respondent notes supporting evidence would be corrected financial records as evidence (e.g. balance sheets, adjusting journal entries, a reconciliation schedule of fixed assets to their general ledgers, and/or a copy of Petitioner's 2019 income tax return, including form 4797 Sales of Business Property). Respondent contends no adjustment can be made without evidence that such assets were, in fact, retired, particularly in light of the fact that Petitioner reported such assets as in use within its 2020 Property Statement filing.

In terms of the Spur Track assets, Respondent began with the Petitioner's reported asset data (Annual Property Statement, supporting schedules, etc.). Respondent calculated the values of the spur track assets in two ways, a Reproduction Cost New Less Depreciation value indicator based off of Petitioner's reported historical costs and a cost approach based off of Marshall & Swift¹⁶ cost data,

¹⁴ No data source is provided for the unrecorded asset retirements.

¹⁵ No data source is provided for the RCN/unit, nor a data source provided for the percent good used. (Petitioner's Exhibit 3, Tab "Spur Track.") Additionally, Petitioner does not tie these assets to Respondent's underlying valuation, making it difficult to determine which assets Petitioner is asserting are overvalued.

¹⁶ Marshall & Swift is a well-known, widely respected provider of cost data used for appraisal and other purposes.

1 specific to the types of assets being valued. The Spur Track assets are valued at \$633,352 after the
2 percent good factor was applied to the ReprCN. The 4-R act ratio is then applied to this value,
3 resulting in a value of \$378,681. Respondent contends Petitioner has not sourced its requested “Direct
4 RCN” calculation, nor has Petitioner provided any evidence or argument to support its contention that
5 this “Direct RCN” calculation is more reliable than Respondent’s calculation. Accordingly,
6 Respondent recommends no adjustment be made for this issue.

7 **Appeals Conference**

8 At the Appeals Conference on November 16, 2020, Petitioner asserted it also used what it
9 reported on its 2020 Property Statement as a basis for the submitted appraisal. Further, Petitioner
10 contends that certain assets valued by the Respondent were similarly valued at zero; Respondent noted
11 it would have to review that claim after the conference, and contended that if Petitioner had asset
12 retirements that were not recognized, they needed to provide some evidence of the retirement, as
13 Respondent stated in its analysis.

14 After further review of the claimed asset retirements and value of Spur Track assets,
15 Respondent confirmed that such assets were being assessed at their calculated value, consistent with
16 assets reported as in use by the Petitioner on its 2020 Property Statement.

17 Petitioner requested this issue be left open, as it asserts such assets should have been valued at
18 zero or in accordance with Petitioner’s submitted “Direct RCN” calculation for the Spur Track Assets.

19 **Applicable Law and Appraisal Principles**

20 **Burden of Proof**

21 Assessing officers are presumed to have properly performed their duties. (Evid. Code, § 664.)
22 Therefore, Petitioner has the burden of showing that the assessment is incorrect or illegal. (*ITT World*
23 *Communications v. Santa Clara* (1980) 101 Cal.App.3d 246; see also Cal. Code Regs., tit. 18, § 5541,
24 subd. (a).)

25 **Value Standard**

26 Property Tax Rule 2, subdivision (a) states that “in addition to the meaning ascribed to them in
27 the Revenue and Taxation Code, the words “full value,” “full cash value,” “cash value,” “actual
28 value,” and “fair market value” mean the price at which a property, if exposed for sale in the open

1 market with a reasonable time for the seller to find a purchaser, would transfer for cash or its
2 equivalent under prevailing market conditions between parties who have knowledge of the uses to
3 which the property may be put, both seeking to maximize their gains and neither being in a position to
4 take advantage of the exigencies of the other.”

5 **The Reproduction Cost Approach to Value**

6 Property Tax Rule 6, subdivision (a) provides, in part, that: “The reproduction or replacement
7 cost approach to value . . . is preferred when neither reliable sales data . . . nor reliable income data are
8 available...” In general, the “reproduction cost of a reproducible property may be estimated either by
9 (1) adjusting the property’s original cost for price level changes and for abnormalities, if any, or (2)
10 applying current prices to the property’s labor and material components, with appropriate additions for
11 entrepreneurial services, interest on borrowed or owner-supplied funds, and other costs typically
12 incurred in bringing the property to a finished state.” (Property Tax Rule 6, subd. (b).) The resulting
13 adjusted cost is the reproduction cost new (ReproCN) which is then “reduced by the amount that such
14 cost is estimated to exceed the current value of the reproducible property by reason of physical
15 deterioration, misplacement, over or under improvement, and other forms of depreciation or
16 obsolescence.” (Property Tax Rule 6, subd. (e); State Board of Equalization, *UVM* (March 2003), pp.
17 23-24.)

18 **Appeals Attorney’s Analysis and Comments**

19 Respondent is presumed to have correctly determined the value of the property at issue, and
20 Petitioner bears the burden of proving otherwise. Here, Petitioner contends that Respondent’s
21 ReproCLD value indicator includes retired assets and assets that are overvalued based on their 2020
22 Property Statement; specifically, Petitioner asserts their “Direct RCN” calculation should be used to
23 value the Spur Track Assets instead. However, Respondent contends Petitioner has provided no
24 evidence to support the existence of retired assets within Petitioner’s 2020 Board-adopted nonunitary
25 value. Further, Respondent contends it appropriately calculated the value of the Spur Track assets,
26 using Marshall & Swift cost data.¹⁷ At the hearing, the parties should be prepared to discuss the issue;
27 further, Petitioner should be prepared to prove the retirements of the identified assets; explain its
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¹⁷ Respondent also notes the ReproCLD approach starting with Petitioner’s self-reported historical cost data would have yielded a much higher value.

1 submitted "Direct RCN" calculation of the Spur Track assets; and explain why this "Direct RCN"
2 calculation must be used instead of Respondent's calculated cost approach for the assets, using
3 Marshall & Swift data.

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