

APPEAL # 21-933  
TAX TYPE: PERSONAL PROPERTY TAX  
TAX YEAR: 2020  
DATE SIGNED: 8/23/2022  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, AND R.ROCKWELL  
EXCUSED/RECUSED: J. FRESQUES

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BEFORE THE UTAH STATE TAX COMMISSION

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TAXPAYER,  Petitioner,  v.  BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH, <sup>1</sup>  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No. 21-933  Parcel No: #####  Tax Type: Personal Property Tax  Tax Year: 2020  Judge: Phan
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**This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must send the response via email to [taxredact@utah.gov](mailto:taxredact@utah.gov), or via mail to Utah State Tax Commission, Appeals Division, 210 North 1950 West, Salt Lake City, Utah 84134.**

**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner:      PETITIONER'S REP-1, Attorney at Law  
                              PETITIONER'S REP-2, Attorney at Law

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<sup>1</sup> Based on how the County's decision was issued and how the parties submitted this appeal, the Tax Commission is listing the Respondent in this matter as the COUNTY-1 Board of Equalization. Technically, pursuant to Utah Code Sec. 59-2-1005, it is the County Legislative Body that should have heard the appeal at the county level and issued the County's final decision and then would be the respondent in this matter. However, the County's final decision was issued by the County Board of Equalization. See Petitioner's Exhibit 4. The County Legislative Body, however, is comprised of the same County Commissioners who sit as the County Board of Equalization.

PETITIONER'S REP-3, Senior Tax Counsel, TAXPAYER.  
PETITIONER'S REP-4, Attorney at Law  
For Respondent: RESPONDENT'S REP-1, COUNTY-1 Deputy District Attorney  
RESPONDENT'S REP-2, COUNTY-1 Assessor  
RESPONDENT'S REP-3, Witness

STATEMENT OF THE CASE

Petitioner ("Taxpayer") brings this appeal under Utah Code §59-2-1005(1)(c) from the decision of the COUNTY-1 Board of Equalization ("the County") regarding the Taxpayer's personal property tax assessment for tax year 2020. This matter was argued before the Utah State Tax Commission in an Initial Hearing<sup>2</sup> on March 15, 2022, in accordance with Utah Code Ann. §59-1-502.5. The decision of the County had been to uphold the value for the subject personal property of \$\$\$\$\$. At this hearing, the Taxpayer requested this value be reduced to \$\$\$\$\$. The County asked that its current value of \$\$\$\$\$ be upheld.

APPLICABLE LAW

Utah Code §59-2-103(1) provides for the assessment of property, as follows:

All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

Personal property is assessed based on a signed statement filed by the owner of the property at Utah Code §59-2-306 as follows:

(1) (a) The county assessor may request a signed statement from any person setting forth all the real and personal property assessable by the assessor which is owned, possessed, managed, or under the control of the person at 12 noon on January 1.

(b) A request under Subsection (1)(a) shall include a notice of the procedure under Section 59-2-1005 for appealing the value of the personal property.

(2) (a) Except as provided in Subsection (2)(b) or (c), a signed statement described in Subsection (1) shall be filed on or before May 15 of the year the statement described in Subsection (1) is requested by the county assessor.

(b) For a county of the first class, the signed statement described in Subsection (1) shall be filed on the later of: (i) 60 days after requested by the assessor; or (ii) on or before May 15 of the year the statement described in Subsection (1) is requested by the county assessor if, by resolution, the county legislative body of that county adopts the deadline described in Subsection (2)(a).

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<sup>2</sup> Although the Taxpayer waived the Initial Hearing and had requested that the matter proceed directly to a Formal Hearing, the County did not waive the Initial Hearing. Pursuant to Utah Admin. R861-1A-24(3), both parties would have had to agree to waive the Initial Hearing, so that is why the matter was scheduled for an Initial Hearing.

(c) If a county assessor requests a signed statement described in Subsection (1) on or after March 16, the person shall file the signed statement within 60 days after requested by the assessor.

(3) The signed statement shall include the following:

(a) all property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent;

(b) the county in which the property is located or in which it is taxable; and, if taxable in the county in which the signed statement was made, also the city, town, school district, road district, or other taxing district in which it is located or taxable; and

(c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and fractional sections of all tracts of land containing more than 640 acres which have been sectionized by the United States Government, and the improvements on those lands.

(4) Every assessor may subpoena and examine any person in any county in relation to any signed statement but may not require that person to appear in any county other than the county in which the subpoena is served.

The procedures for appealing a personal property valuation are set out at Utah Code §59-2-1005 as follows:

(1) (a) A taxpayer owning personal property assessed by a county assessor under Section 59-2-301 may make an appeal relating to the value of the personal property by filing an application with the county legislative body no later than:

(i) the expiration of the time allowed under Section 59-2-306 for filing a signed statement, if the county assessor requests a signed statement under Section 59-2-306; or

(ii) 60 days after the mailing of the tax notice, for each other taxpayer.

(b) A county legislative body shall:

(i) after giving reasonable notice, hear an appeal filed under Subsection (1)(a); and

(ii) render a written decision on the appeal within 60 days after receiving the appeal.

(c) If the taxpayer is dissatisfied with a county legislative body decision under Subsection (1)(b), the taxpayer may file an appeal with the commission in accordance with Section 59-2-1006.

(2) A taxpayer owning personal property subject to a fee in lieu of tax or a uniform tax under Article XIII, Section 2 of the Utah Constitution that is based on the value of the property may appeal the basis of the value by filing an appeal with the commission within 30 days after the mailing of the tax notice.

The Tax Commission adopted Utah Adim. Rule R884-24P-20 to assist in the valuation of construction work in progress for personal or real property tax assessments as follows in relevant part:

A. For purposes of this rule:

1. Construction work in progress means improvements as defined in Section 59-2-102, and personal property as defined in Section 59-2-102, not functionally complete as defined in A.6.
2. Project means any undertaking involving construction, expansion or modernization.
3. "Construction" means: a) creation of a new facility; b) acquisition of personal property; or c) any alteration to the real property of an existing facility other than normal repairs or maintenance.
4. Expansion means an increase in production or capacity as a result of the project.
5. Modernization means a change or contrast in character or quality resulting from the introduction of improved techniques, methods or products.
6. Functionally complete means capable of providing economic benefit to the owner through fulfillment of the purpose for which it was constructed. In the case of a cost-regulated utility, a project shall be deemed to be functionally complete when the operating property associated with the project has been capitalized on the books and is part of the rate base of that utility.
7. Allocable preconstruction costs means expenditures associated with the planning and preparation for the construction of a project. To be classified as an allocable preconstruction cost, an expenditure must be capitalized.

. . . .

B. All construction work in progress shall be valued at "full cash value" as described in this rule.

C. Discount Rates

For purposes of this rule, discount rates used in valuing all projects shall be determined by the Tax Commission, and shall be consistent with market, financial and economic conditions.

D. Appraisal of Allocable Preconstruction Costs.

1. If requested by the taxpayer, preconstruction costs associated with properties, other than residential properties, may be allocated to the value of the project in

relation to the relative amount of total expenditures made on the project by the lien date. Allocation will be allowed only if the following conditions are satisfied by January 30 of the tax year for which the request is sought: a) a detailed list of preconstruction cost data is supplied to the responsible agency; b) the percent of completion of the project and the preconstruction cost data are certified by the taxpayer as to their accuracy.

2. The preconstruction costs allocated pursuant to D.1. of this rule shall be discounted using the appropriate rate determined in C. The discounted allocated value shall either be added to the values of properties other than residential properties determined under E.1. or shall be added to the values determined under the various approaches used in the unit method of valuation determined under F. 3. The preconstruction costs allocated under D. are subject to audit for four years. If adjustments are necessary after examination of the records, those adjustments will be classified as property escaping assessment.

E. Appraisal of Properties not Valued under the Unit Method.

1. The full cash value, projected upon completion, of all properties valued under this section, with the exception of residential properties, shall be reduced by the value of the allocable preconstruction costs determined in D. This reduced full cash value shall be referred to as the "adjusted full cash value."

2. On or before January 1 of each tax year, each county assessor and the Tax Commission shall determine, for projects not valued by the unit method and which fall under their respective areas of appraisal responsibility, the following:

- a) The full cash value of the project expected upon completion.
- b) The expected date of functional completion of the project currently under construction.

(1) The expected date of functional completion shall be determined by the county assessor for locally assessed properties and by the Tax Commission for centrally-assessed properties.

c) The percent of the project completed as of the lien date.

(1) Determination of percent of completion for residential properties . . . .

(2) In the case of all other projects under construction and valued under this section the percent of completion shall be determined by the county assessor for locally assessed properties and by the Tax Commission for centrally-assessed properties.

3. Upon determination of the adjusted full cash value for nonresidential projects under construction or the full cash value expected upon completion of residential projects under construction, the expected date of completion, and the percent of the project completed, the assessor shall do the following:

a) multiply the percent of the residential project completed by the total full cash value of the residential project expected upon completion; or in the case of nonresidential projects,

b) multiply the percent of the nonresidential project completed by the adjusted full cash value of the nonresidential project;

c) adjust the resulting product of E.3.a) or E.3.b) for the expected time of completion using the discount rate determined under C.

....

Utah Admin. Rule R884-24P-33 provides the personal property schedules and guidance for valuing personal property as follows:

(1) Definitions.

(a) "Acquisition cost" means the same as that term is defined in Section 59-2-102.

(b)(i) "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs. (ii) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

(c) "Cost new" means the actual cost of the property when purchased new. (i) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new: (A) documented actual cost of the new or used vehicle; or (B) recognized publications that provide a method for approximating cost new for new or used vehicles. (ii) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:

....

(d) For purposes of Sections 59-2-108 and 59-2-1115, "item of taxable tangible personal property" means a piece of equipment, machinery, furniture, or other piece of tangible personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable tangible personal property is not an individual component part of a piece of machinery or equipment, but the piece of machinery or equipment. For example, a fully functioning computer is an item of taxable tangible personal property, but the motherboard, hard drive, tower, or sound card are not.

(e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation. (i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property. (ii) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as Penton Price Digests.

(2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

(a) Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

(b) A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

(c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an

entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

(d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

In property tax appeal proceedings in general the case law places the burden of proof on the petitioner to support its position. *See Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997); *Utah Power & Light Co. v. Utah State Tax Comm'n*, 590 P.2d 332 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); and *Fraughton v. Tax Commission*, 2019 UT App 6. To prevail in this case the petitioner must: 1) demonstrate that the subject property's current value contains error; and 2) provide the Commission with a sound evidentiary basis for changing the subject property's current value to the amount it proposes.

#### DISCUSSION

The Taxpayer had submitted to the County on DATE, its Personal Property Signed Statement & Tax Notice. On that statement, however, the Taxpayer had made some cost adjustments to property which the Taxpayer had labeled as CWIP on the form, or construction work in progress. The Taxpayer claimed \$\$\$\$ in total personal property taxable value on that form. The Taxpayer also included with the Signed Statement a request for appeal, requesting a hearing “should the County not be in agreement” with the Taxpayer's opinion of value.<sup>3</sup> The County did not agree with the Taxpayer's cost adjustments or opinion of value and the matter proceeded through the County's appeal process.<sup>4</sup> The County issued its decision that the total assessed value of the Taxpayer's personal property was \$\$\$\$.<sup>5</sup> The Taxpayer timely appealed the County's decision to the Tax Commission and the appeal is the matter now before the Tax Commission.

The Taxpayer's representatives explained at the hearing that the adjustment the Taxpayer was requesting was related primarily to its CWIP property. The representatives for the Taxpayer explained that the subject personal property is located at the Taxpayer's refinery in COUNTY-1,

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<sup>3</sup> Petitioner's Exhibit 1.

<sup>4</sup> In its appeal to the County, Petitioner's Exhibit 2, pdf #2, the Taxpayer had asked that the County Assessor deviate from the published Rule 33 schedules. The Taxpayer stated, “[a]pplication of the percent good tables of Rule 33 do not equate to fair market value/fair cash value of the noted property and additional adjustments are required to account for all forms of obsolescence as identified by the third-party appraiser. Pursuant to Rule 33(2)(c), TAXPAYER requests the County assessor's office to deviate from the published schedules as warranted by specific conditions affecting the items of personal property identified and value such property reflecting such obsolescence.”

<sup>5</sup> Petitioner's Exhibits 3 & 4.

which was originally built in DATE on ##### acres. The Taxpayer's refinery processes crude oil from Utah, STATE-1, STATE-2 and COUNTRY-1. The Taxpayer's representatives explained that the Taxpayer as of the lien date at issue was in the process of retrofitting its ##### barrels per day hydrofluoric acid alkylation unit to the first alkylation unit in the United States based on ionic liquids alkylation technology.<sup>6</sup> The Taxpayer referred to this as its PROJECT-1. The Taxpayer's representatives explained that this project is the first of a kind project to bring Iso-Alky technology to the refinery. This project was not completed on the lien date January 1, 2020, so the new personal property was not functionally complete as of that date, but was only %%% complete on the lien date. The Taxpayer had reported the new assets as CWIP in its Personal Property Statement. The issue and the difference in value between what the Taxpayer was requesting and the County's assessment was that the Taxpayer had made a significant obsolescence adjustment to the costs of the Iso-Alky Retrofit assets. The Taxpayer argued that although new and not yet functionally complete as of the lien date, there was substantial obsolescence in the PROJECT-1 due to the additional costs needed in this first of a kind project. The Taxpayer argued that Utah Admin. Rule R884-24P-33 (Rule 33) should be applied to the CWIP property and the Commission should reduce the value of the CWIP property based on Rule 33(2)(d). Pursuant to Rule 33(2)(d), "[a] party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value."

As evidence of the obsolescence, the Taxpayer submitted a personal property Restricted Appraisal Report at the Initial Hearing. The appraisal had been prepared by PERSON-1, Ph.D, MBA, P.E., Licensed Professional Engineer.<sup>7</sup> This appraisal considered the value of the assets that were already operational and functionally complete based on a cost approach and it was the appraisal conclusion that the value of the functionally complete equipment was \$\$\$\$\$. Although the appraiser did conclude some obsolescence in the functionally complete equipment, the Taxpayer's primary issue addressed at the Initial Hearing involved the PROJECT-1 CWIP property. The appraisal concluded that there was significant obsolescence associated with the non-functionally complete PROJECT-1.

Regarding the PROJECT-1, the appraisal stated, "[t]he technology utilized in this process is a first of a kind (FOAK) at this capacity."<sup>8</sup> The appraisal contained only a summary of conclusions and did not contain any of the back up information or an analysis of how the

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<sup>6</sup> See also Petitioner's Exhibit 1.

<sup>7</sup> Petitioner's Exhibit 7. PERSON-1 did not attend the hearing to answer questions about the appraisal.

<sup>8</sup> Petitioner's Exhibit 7, pg. 18.



appraiser had reached the conclusions that he reached. The appraisal made a statement that in the appraiser's opinion, the first of a kind nature of the project resulted in substantially increased costs in the following areas:<sup>9</sup>

- Engineering First-time and Overdesign
- Technology Design Reviews
- Safety & Hazard Reviews
- Instrumentation & Monitoring
- Control Systems Development
- Project Planning & Project Management
- Construction Management
- First-time Equipment Designs
- First-time Suppliers & Logistics
- Offsite Module Fabrication
- Shipping Costs
- Schedule delays and expediting fees
- Skilled Labor Availability
- Sitework, Provisions & Work-Around Activities
- Contingencies in Engineering, Design & Construction

The appraisal stated that the Taxpayer's budget for the PROJECT-1 was \$\$\$\$\$. The appraisal provided a table that showed certain amounts subtracted from the project budget to get to what the appraisal concluded was the estimated cost based on project expenditures. However, there were no accounting records or documents that show how these numbers were determined or why they should be subtracted. The table listed the following:<sup>10</sup>

REDACTED TABLE

It appeared that the appraiser had also looked to other approaches to valuing the PROJECT-1. The appraisal provided a table that gave a conclusion of value from each approach and how each was weighed in the final reconciliation. However, the appraisal did not contain an explanation or any of the data used to determine any of the approaches, other than the table provided above that showed how the Estimated Cost Based on Project Expenditures had been derived. The appraisal table showing all of the approaches was as follows:<sup>11</sup>

REDACTED TABLE

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<sup>9</sup> Petitioner's Exhibit 7, pg. 18.

<sup>10</sup> Petitioner's Exhibit 7, pg. 19.

<sup>11</sup> Petitioner's Exhibit 7, pg. 19.

The appraisal then noted that the PROJECT-1 was %%% complete as of the lien date and noted there was \$\$\$\$ in other CWIP not related to the PROJECT-1. This resulted in a conclusion of a \$\$\$\$ taxable value for the CWIP. The appraisal conclusion for the value of the personal property was listed as follows:

REDACTED TABLE

At the hearing, the Taxpayer was requesting a reduction in value to \$\$\$\$\$, which was higher than the appraisal conclusion and it appeared the difference was primarily due to applying the obsolescence adjustment only to the CWIP property.

The County's assessed value was based directly on the asset list provided by the Taxpayer and the Taxpayer's statement of the year the asset was acquired and the acquisition cost. The Taxpayer is required to provide this personal property statement pursuant to Utah Code §59-2-306 and this statement from the Taxpayer is the basis for the County's calculation of the personal property assessment. The County provided a copy of the personal property list from the Taxpayer, which shows all of the personal property items, the date the personal property was acquired and the acquisition cost.<sup>12</sup> To assess the personal property value, the personal property items were separated into two categories by the Taxpayer on its personal property statement: 1) property that was already functionally complete and used in the operations; and 2) property that was classified by the Taxpayer as CWIP, which was the property that was not functionally complete. For the property that was already functioning and operational, the County applied the classification number from the Rule 33 Schedules based on the property type and then the percent good that came from the Rule 33 schedules for that property type and property age.

However, for the CWIP property, which was the property that the Taxpayer had listed on its personal property report as CWIP, the County's assessment was based on Utah Admin. Rule R884-24P-20 ("Rule 20") and not Rule 33. The CWIP property was not given a Rule 33 classification number, nor was a percent good applied from the Rule 33 schedules. As CWIP, the acquisition cost was multiplied by the percent complete, as outlined in Rule 20.<sup>13</sup> At the hearing, the County argued that Rule 33 and the provision at 33(2)(d) that states "[a] party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value" does not apply to the CWIP property; it applies only to property that is functionally complete and that is assessed under Rule 33. The County pointed out that CWIP property is not valued based on the Rule 33 schedules.

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<sup>12</sup> Respondent's Exhibit 1.

<sup>13</sup> Respondent's Exhibit 1.

The County also pointed out at the hearing that the appraisal submitted by the Taxpayer was lacking evidence, support documents and contained an insufficient basis or analysis to support the appraisal conclusions. The County pointed out that the amount that the appraiser had claimed as the excess costs of the PROJECT-1 was completely unsupported. The County also argued the appraisal was double dipping by making reductions in two different places for other design costs. The County pointed out that the Iso-Alky technology is brand new technology, yet the Taxpayer is arguing it is obsolete. The County stated that the Taxpayer's statements regarding the value of the PROJECT-1 to the County in this matter are contradictory to statements that the Taxpayer is making to the public in press releases and in its financial filings. The County did not provide copies of the press releases or financial filings but proffered at the hearing that the Taxpayer had made statements to the effect that the new Iso-Alky technology was cheaper, safer and more efficient and the costs to retrofit were comparable to a unit retrofit of any type. The County stated before it would consider an adjustment for obsolescence for the CWIP property, the County would need to look at information such as the financial analysis the Taxpayer had made at the time the Taxpayer decided to make the investment in this new technology.

In addition to its other arguments, the County argued at the hearing that a functional obsolescence adjustment is just an estimated guess and proposing such an adjustment does not meet the burden of proof to show substantial error in the County's value. For support, the County pointed to the Utah Court of Appeals' discussion about obsolescence adjustments in *Hercules Inc. v. Utah State Tax Com'n*, 877 P.2d 169 (Utah Ct. App. 1994). However, upon review of the court's decision in that case, although the court stated the appraisers who were proposing various obsolescence adjustments for the opposing parties were "in the end, simply making educated guesses as to the appropriate amounts," the County's argument that a proposed obsolescence adjustment could never establish substantial error in the County's value is not a conclusion reached by the court in *Hercules*.<sup>14</sup>

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<sup>14</sup> In its decision in *Hercules Inc. v. Utah State Tax Com'n*, 877 P.2d 169 (Utah Ct. App. 1994), which was a real property appeal and not a personal property appeal, the court noted:

While the concepts of functional and economic obsolescence are easily grasped in a theoretical sense, the task of quantifying the amount of obsolescence appears to be an unpredictable undertaking. The testimony of both Mr. Shoup and Mr. Kent demonstrated that they were, in the end, simply making educated guesses as to the appropriate amounts. In this kind of a case, one longs for clarity and easy computation; however, it simply does not exist. The appraisers' inability to arrive at comparable numbers highlights the difficulty of the task rather than their inadequacy. Accordingly, the Commission was left with two disparate appraisals that contained educated "estimates" of the proper amount of functional and economic obsolescence. We defer to the Commission's determination that the County's appraisal was more credible than Hercules's. Since the County's appraisal was supported by substantial evidence, it was reasonable for the Commission to accept it.

Regardless, upon review of the evidence and argument of the parties, the County has made two valid arguments that support denial of this appeal at the Initial Hearing level. The first is that CWIP property is valued based on Rule 20, not Rule 33 and the Rule 33 schedules are not applied. Therefore, although Rule 33(2)(d), does provide that “[a] party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value,” the CWIP property value is not a value “established by the schedule.” The Taxpayer does not provide case law or statutory support for its position that the Rule 33(2)(d) provision may be applied to CWIP property. Second, even if the Tax Commission were to conclude obsolescence could be applied to the property, the appraisal submitted by the Taxpayer does not provide a sufficient evidentiary basis to support the adjustment. The appraisal is lacking information and analysis and supporting documentation was not submitted.

Therefore, the Taxpayer’s appeal of the 2020 personal property assessment should be denied.

Jane Phan  
Administrative Law Judge

**DECISION AND ORDER**

Based on the foregoing, the Commission denies the Taxpayer’s appeal of the personal property assessment for tax year 2020. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division

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We therefore hold that the Commission did not fail to properly account for functional and economic obsolescence.

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210 North 1950 West  
Salt Lake City, Utah 84134  
or emailed to:  
taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Jennifer N. Fresques  
Commissioner