

## SRI Homes Inc v Canada, 2012 FCA 208

### What Constitutes Sufficient Reasons?

#### [SRI Homes Inc v Canada, 2012 FCA 208](#)

The issue in this case was whether the reasons given by the TCC judge were adequate.

In the issued decision, the TCC quoted from the appellant's and the Crown's written submissions :

- The issues framed were verbatim quotations from the Crown;
- The competing theories of the case were identified by the court by quoting from the two parties;
- Quotations were taken from the closing submissions of both parties, with a greater amount quoted from the Crown.

The FCA began by reviewing what factors one would consider when looking to determine the adequacy of reasons. The court began by referring to " *R. v. Sheppard*, 2002 SCC 26, [2002] 1 S.C.R. 869, [where] the Supreme Court of Canada confirmed that a trial judge has no general duty to provide reasons for a decision "when the finding is otherwise supportable on the evidence or where the basis of the finding is apparent from the circumstances" (paragraph 4, citing *R. v. Barrett*, [1995] 1 S.C.R. 752 at page 753)".

The court then referred to *R. v. R.E.M.*, 2008 SCC 51, where the Supreme Court of Canada reiterated that a court of appeal in "considering the sufficiency of reasons should read them as a whole, in the context of the evidence, the arguments and the trial, with an appreciation of the purposes or functions for which they are delivered" (para 16), and quoted paragraph 17 where the Supreme Court wrote:

These purposes are fulfilled if the reasons, read in context, show why the judge decided as he or she did. The object is not to show *how* the judge arrived at his or her conclusion, in a "watch me think" fashion. It is rather to show *why* the judge made that decision. The decision of the Ontario Court of Appeal in *Morrissey* predates the decision of this Court establishing a duty to give reasons in *Sheppard*. But the description in *Morrissey* of the object of a trial judge's reasons is apt. Doherty J.A. in *Morrissey*, at p. 525, puts it this way: "In giving reasons for judgment, the trial judge is attempting to tell the parties what he or she has decided and why he or she made that decision" (emphasis added). What is required is a logical connection between the "what" -- the verdict -- and the "why" -- the basis for the verdict. The foundations of the judge's decision must be discernable, when looked at in the context of the evidence, the submissions of counsel and the history of how the trial unfolded. [emphasis in original]

The FCA then turned its. In to applying the "functional" analysis to the TCC decision, stating that the record before the TCC would be a very important consideration. After recognizing that "reasons similar to those now before this Court may be adequate, depending on the nature and the number of issues before the trial court, the nature of the evidentiary record and the substance and nature of the submissions made to the trial court", the court concluded that in this case the TCC erred in law by failing to give adequate reasons.

This was because:

- Although the parties had competing theories, the judge did not explain why the Crown's theory was preferred to the taxpayer's;
- Some of the arguments by the Crown were internally inconsistent, but the judge failed to characterize the transaction;
- None of the *viva voce* evidence was referred to even though the taxpayer's seduced evidence to support his theory.
- The reasons don't demonstrate that the judge grappled with the issued raised by counsel in oral argument, or that he dealt with All the arguments raised.

The FCA concluded that "in light of the issues, evidence and submissions before the Judge, he was, in my respectful view, required to explain why he embraced the Crown's position so completely."