

BREAKING CASE LAW

***Stuber v County of
Barrhead No. 11
(Subdivision and
Development
Appeal Board),
2017 ABCA 52***

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This Issue

Sufficiency of Reasons

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In this relatively brief decision (14 paragraphs) released on February 10, 2017, the Court of Appeal demonstrated a practical application of the principles in *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 (“*Newfoundland Nurses*”) relating to sufficiency of reasons.

In this case, Stony Valley Contracting Ltd. received a development permit for a sand and gravel extraction and crushing operation, on land nine miles from the Stubers’ land. Stony Valley proposed three hauling routes, the preferred of which was adjacent to the Stubers’ land. One of the conditions of the development permit was that Stony Valley had to enter into and comply with a development agreement with the County of Barrhead covering, among other things, designation of haul routes. The Stubers’ appealed the development permit to the SDAB. The SDAB dismissed the Stubers’ appeal but modified the condition in question by stating in part that the “approved haul route shall be essentially as depicted on the map comparing proposed haul routes (Exhibit 13) as Final Route in green.”

Section 687(2) of the *Municipal Government Act* requires that an SDAB give “its decision in writing together with reasons for the decision” within 15 days.

The Stubers appealed the SDAB’s decision to the Court of Appeal (after obtaining leave). The issue on appeal was the adequacy of the SDAB’s reasons; the Stubers argued that the reasons did not explain why the SDAB chose this particular haul route, out of the three choices.

The respondents (Stony Valley, County of Barrhead, and the SDAB) argued *Newfoundland Nurses*, in that:

- a) Adequacy of reasons is not a stand-alone basis to quash a decision, and is instead part of the “more organic exercise” of reading outcome and reasons together;

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- b) A reviewing court should look to the record when assessing the reasonableness of a decision; and
- c) A tribunal need not make explicit findings on each subordinate constituent element of its decision.

In this case, the Court of Appeal looked at the record and found several instances where the selection of the haul route was referenced. The Court found that the location of the haul route was “a relatively minor aspect of the overall development” and that the evidence on the record showed the selection of the haul route was “within the range of reasonable outcomes.”

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