

IN THE MATTER OF THE *PREVENTION OF CRUELTY TO ANIMALS ACT*,  
R.S.B.C. 1996, c. 372

ON APPEAL FROM A REVIEW DECISION OF THE BC SOCIETY FOR THE PREVENTION OF  
CRUELTY TO ANIMALS CONCERNING THE SEIZURE OF 88 ANIMALS: 45 DOGS, 18 CATS, 1  
RABBIT, 1 QUAIL, 1 RED EARED SLIDER TURTLE, 5 GOATS, 1 POT BELLIED PIG, 3 DUCKS,  
3 SHEEP, 5 CHICKENS, AND 5 PIGEONS

**BETWEEN:**

SANDRA SIMANS

**APPELLANT**

**AND:**

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO  
ANIMALS

**RESPONDENT**

**DECISION**

**APPEARANCES:**

For the British Columbia  
Farm Industry Review Board:

Corey Van't Haaff, Presiding Member

For the Appellant:

Sandra Simans

For the Respondent:

Christopher Rhone, Counsel

Date of Hearing:

November 10 and 14, 2016

Location of Hearing:

Teleconference

## **I. Overview**

1. This is an appeal pursuant to s. 20.3 of the *Prevention of Cruelty to Animals Act*, R.S.B.C. 1996, c. 372 (the *PCAA*).
2. The Appellant appeals the October 7, 2016 review decision issued under s. 20.2(4)(b) of the *PCAA* by Marcie Moriarty, Chief Prevention and Enforcement Officer for the British Columbia Society for the Prevention of Cruelty to Animals (BC SPCA).
3. Section 20.6 of the *PCAA* permits the BC Farm Industry Review Board (BCFIRB), on hearing an appeal in respect of an animal, to require the Society to return the animal to its owner with or without conditions or to permit the Society in its discretion to destroy, sell or otherwise dispose of the animals.
4. For reasons that will be explained in detail later, I have decided to order that the Society be permitted to keep all the animals and no animals will be returned to the Appellant. I note that the Society plans on adopting the Animals out to compassionate people or families capable of providing the Animals with appropriate accommodations and care so that the Animals do not once again fall into a state of distress.
5. I will deal with the issue of costs below.

## **II. Brief Summary of the Decision Under Appeal**

6. The October 7, 2016 written reasons of the Society concluded that it was not in the best interests of 45 dogs, 18 cats, 1 rabbit, 1 quail, 1 red eared slider turtle, 5 goats, 1 pot-bellied pig, 3 ducks, 3 sheep, 5 chickens and 5 pigeons (the “Animals”) seized on September 19, 2016 from the Appellant (from her Langley property) pursuant to the *Prevention of Cruelty to Animals Act*, R.S.B.C. 1996, c. 372 (the “*PCAA*”) to be returned to the Appellant. It should be noted that after the seizure, 3 animals (2 dogs and 1 cat) were deemed to be in critical distress and were euthanized.

## **III. The Society’s Powers and Duties**

7. The Society under the *PCAA* is mandated to prevent and relieve animals from situations of cruelty, neglect and distress. The Society can seize animals from the care and custody of their owners or take custody of abandoned animals, as authorized by the *PCAA*. The Society’s investigation and seizure powers are set out in Part 3 of the *PCAA*, entitled “Relieving Distress in Animals”.
8. The March 20, 2013 legislative reforms, set out in Part 3.1 of the *PCAA*, state among other things that if the Society has taken an animal into custody under section s. 10.1 or 11, an owner may request a review by the Society within the specified time limits: *PCAA*, s. 20.2(1), (2). If a review is requested, the Society must review the decision and must not destroy, sell or dispose of the animal during the review period unless it is returning the animal: *PCAA*, ss. 20.2(3).
9. The *PCAA* does not set out any specific process for the review. Administratively, the Society’s current process where a review is requested is to prepare a disclosure package and then to invite submissions from the owner concerning the return of the animals and to consider these submissions

in light of the investigation results to determine whether it is in the animals' best interests to be returned to their owners.

10. Sections 20.2(4) and (5) of the *PCAA* set out the Society's options following a review:

20.2 (4) The society, following a review, must

(a) return the animal to its owner or to the person from whom custody was taken, with or without conditions respecting

(i) the food, water, shelter, care or veterinary treatment to be provided to that animal, and

(ii) any matter that the society considers necessary to maintain the well-being of that animal, or

(b) affirm the notice that the animal will be destroyed, sold or otherwise disposed of.

(5) The society must provide to the person who requested the review

(a) written reasons for an action taken under subsection (4), and

(b) notice that an appeal may be made under section 20.3.

#### **IV. The Appeal Provisions**

11. I am guided by the approach to appeals under the *PCAA* which is set out in detail in *A.B. v British Columbia Society for the Prevention of Cruelty to Animals*, (August 9, 2013), which decision was upheld by the Supreme Court on judicial review<sup>1</sup>. In summary, the right of appeal to BCFIRB gives persons adversely affected by certain decisions of the Society an alternative to a more formal judicial review or judicial appeal. The reforms give BCFIRB broad evidentiary, investigation, inquiry and remedial powers upon hearing an appeal: ss. 20.5 and 20.6. The *A.B.* decision reads in part:

Appeals under Part 3.1 of the *PCAA* are not required to be conducted as true appeals, and BCFIRB is not required to defer to decisions of the Society. In my view, the appellant has the onus to show that, based on the Society's decision or based on new circumstances, the decision under appeal should be changed so as to justify a remedy. Where, as here, the Society has made a reasoned review decision, BCFIRB will consider and give respectful regard to those reasons.

However, that consideration and respect does not mean the Society has a "right to be wrong" where BCFIRB believes the decision should be changed because of a material error of fact, law or policy, or where circumstances have materially changed during the appeal period. BCFIRB can give respect to Society decisions without abdicating its statutory responsibility to provide effective appeals.

The clear intent of this reform legislation was to give BCFIRB, as the specialized appeal body, full authority to operate in a way that is flexible and accessible to lay persons, and to use its expertise to ensure that decisions are made in the best interests of animals. The procedure followed by BCFIRB is a flexible approach specifically crafted to accomplish the intent of the legislation in the context of animal welfare and lay participation. This includes taking into account developments occurring since the Society's decision was made. This is entirely in accord with the inevitably fluid nature of the situation, and well within the powers granted by section 20.5 of the *PCAA*.

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<sup>1</sup> *BC Society for Prevention to Cruelty to Animals v. British Columbia (Farm Industry Review Board)*, 2013 BCSC 2331

## **V. Preliminary matter – Society’s decision to euthanize one of the animals**

12. Section 12 of the *PCAA* authorizes the Society to destroy an animal or have an animal destroyed if, in the opinion of a registered veterinarian; the animal is in critical distress. “Critical distress” is defined as “distress in an animal of such a nature that (a) immediate veterinary treatment cannot prolong the animal’s life, (b) prolonging the animal’s life would result in the animal suffering unduly.”
13. Decisions made by the Society under s. 12 are not appealable to BCFIRB.
14. I raise this at the outset because there was evidence before me that one dog, a doberman (Peanut), was seized and ultimately euthanized as being in critical distress. Testimony of Ms. M.N. was that she was the owner of the dog Peanut and due to a personal medical situation, Peanut was being cared for by the Appellant at the time of seizure and had been since February 2016, but was expected to be picked up within days of the seizure. The owner testified that she had had Peanut since birth and consulted her veterinarian at that time asking if Peanut was in pain or suffering and it was determined Peanut was happy and doing well, so she decided to allow Peanut to live. She testified that Peanut occasionally has pressure sores which she treated, and she testified that the Appellant was given the medicine to treat a pressure sore if one occurred. Ms. M.N. had never been inside the Appellant’s home but had visited Peanut off-site a few times during this long boarding.
15. At the seizure in this case, the Society’s veterinarian, Dr. Adrian Walton, determined Peanut to be in critical distress and recommended euthanization. M.N. was called and permitted to take Peanut to her own veterinarian. Ms. M.N. testified that her own veterinarian told her that Peanut was not in critical distress and did not agree with that determination, although he understood the Society’s determination. Her veterinarian suggested that medicine could keep Peanut’s condition in check but that the Society’s recommendation of euthanization, due in part, according to her testimony, to a herniated diaphragm, meant that Ms. M.N. could either euthanize her dog with her own veterinarian while she held him, or have the Society take Peanut away to be euthanized alone. Ms. M.N. testified she was forced to euthanize her dog Peanut and that was not her decision.
16. While this issue is beyond my authority to adjudicate, I do not think it is improper for me to simply note that I appreciate that the Society is faced with a difficult dilemma when one veterinarian provides an opinion of critical distress and another differs with that assessment (which may or may not have occurred here). While s. 12 of the *PCAA* legally authorizes the Society to euthanize an animal upon receiving the opinion of “a registered veterinarian”, one would hope and expect in practical terms that, where there may be a professional difference of opinion, the two professionals would have the opportunity to consult before final decisions are made by the Society. The evidence is that this took place here, as set out in Dr. Walton’s report, quoted later in this decision. There are very few easy answers in these situations. I offer my sincerest condolences to Ms. M.N. on the very unfortunate loss of her dog.

## **VI. Material Admitted on this Appeal**

17. All affidavits and witness statements, emails, photographs, and materials submitted were entered into evidence. Parties were sworn before giving oral testimony. The Society in presenting its case decided not to call Special Provincial Constable (SPC) Drever as a witness, due partly but not

solely to a lack of time, and the Appellant did not dispute this, but I did permit the previous Society witness SPC Auzins to be recalled to permit additional testimony and cross examination.

18. The following materials were admitted into evidence:

**Appellant:**

- a) Appellant's October 11, 2016 Notice of Appeal (**Exhibit 1**)
- b) Appellant's October 28, 2016 Submission (Tabs 1-44) (**Exhibit 2**)
- c) Witness Contact Form (Ms. C.H.) via email November 7, 2016 (**Exhibit 3**)
- d) Three photos (cat kennel, Murrayville, bird 1 and bird 2) via email November 7, 2016 (**Exhibit 4**)
- e) Five photos (trucks, cat kennel Bosley's, cat kennel Murrayville Hospital, bar fridge, cat kennel Bosley's again) via email November 7, 2016 (**Exhibit 5**)
- f) Hill's Science Diet paper via email November 7, 2016 (**Exhibit 6**)
- g) Animal Hospital "A" Treatment Record, email November 8, 2015 (**Exhibit 14**)
- h) Photos previously provided by Society via email November 9, 2015 (**Exhibit 15**)

**Respondent:**

- a) Society Binder (Tabs 1-22) (October 21, 2016 via email and courier) – (**Exhibit 7**)
- b) Updated Document Disclosure (Tab 22, pp.735 to 747) (**Exhibit 8**)
- c) Affidavit #1 of Shawn Eccles (November 4, 2016 via courier) (**Exhibit 9**)
- d) Expert Witness Contact Form (Dr. Adrian Walton and Dr. Joseph O'Sullivan) (November 4, 2016 via courier) (**Exhibit 10**)
- e) Witness Contact Form (SPC Auzins and SPC Drever) (November 4, 2016 via courier) (**Exhibit 11**)
- f) Society Written Submission (November 4, 2016 via courier) (**Exhibit 12**)

**BCFIRB:**

- a) BCFIRB letter to parties (November 9, 2016) (**Exhibit 13**)

**VII. The Appeal**

**Brief History**

19. The Appellant runs an animal rescue operation called "1atatime Rescue Society". The Appellant rescues animals and either keeps them in a semi-sanctuary state or finds adoptive homes for them. The Appellant primarily works alone at her rescue, and has not brought in any new animals for around a year, though most of her animals have been with her for several years.
20. There is a contentious history between the Appellant's rescue operation (or her personally) and the Society. The Society references historical conversations between 2009 and 2012 regarding, mostly,

domestic animals in the Appellant's care and her failure, in its view, to meet requirements of and standards of care regarding adequate space, exercise, clean environment and veterinary care. Emphasis from the Society was on the Appellant reducing the number of animals in her care so she could adequately provide for them.

21. On June 13, 2012, the Society removed 68 animals from the Appellant's care. Animals were suffering from poor housing, severe periodontal disease, long nails, poor body condition, hair loss, skin infections, ear mites, fleas and other conditions. Ultimately these animals were returned to the Appellant with various orders being issued. Upon the return of the animals, it appears both parties contacted the RCMP, the Society to request assistance to follow the Appellant and the Appellant to request assistance for being followed. The situation continued to deteriorate and both parties, alternately, began issuing orders or issuing letters refusing all future orders. Search warrants of veterinary records were issued to the Society on a few occasions. From the evidence presented by the Appellant, it appears that at some time after the 2012 seizure, she sued the Society successfully for what appears to be a failure on the Society's part to fully disclose the pre-existence of the poor condition of one dog and the Society apparently was ordered to pay the Appellant and her rescue \$2,500 in general damages.

### **VIII. The Society's Review Decision**

22. Marcie Moriarty, the Society's Chief Prevention and Enforcement Officer, issued lengthy written reasons dated October 7, 2016 on her review of this matter. After concluding that the animals seized had been taken into custody to relieve their distress, the written reasons stated, in part:

I turn now to the question as to whether or not it would be in the best interest of the Animals to be returned to you. In making any determination regarding the best interest of the Animals, I consider whether you would be able to ensure the Animals remained distress-free if they were returned. This is a duty owed by an owner pursuant to section 9.1 of the Act. I also consider the history leading up to the seizure of the Animals.

#### *History*

As is set out in the ITO, this is not the first time that the BC SPCA has had to resort to removing animals that met the definition of distress from your care. While I do not intend to go into all of the history in this decision, I do rely on it from the ITO in making my ultimate decision as to what is in the best interest of the Animals in this case. It is clear from reviewing this file that we have had numerous conversations with you about the various requirements and standards of care for your animals between 2009 and 2012. While most of these past instances had to do with domestic animals, the basic requirements for adequate space, exercise, clean environment and veterinary care principals were explained to you. Emphasis was also placed on decreasing the animals in your care so that you could adequately provide for them.

On June 13, 2012, the BC SPCA acting as the pound keeper in the city of Burnaby removed 68 animals from your custody. The dogs were found housed in travel crates and the cats removed were loose in two rooms. A number of animals were suffering from various ailments a such as severe periodontal disease, broken and/or loose teeth, luxating patellas, long nails, poor body condition, hair loss, skin infection, cherry eye, ear mites, flea infestation and dry eyes. Sadly, four years later, the Animals removed in this case are in almost identical circumstances.

#### *The 2016 Incident*

On August 20, 2016, the BC SPCA received a call from an individual who was concerned about the animals in your care. The individual claimed that you had told her that you were "overwhelmed" and

that you had “rescued too many animals and are unable to afford to feed all the animals.” A call was opened and a constable attended for an inspection on August 24, 2016. The ITO provides the details of what transpired during that inspection, but it is clear that a great number of issues were observed with the animals and a number of notices of distress were issued. I will add, that many of these notices of distress were to address the very same issues that had been raised with you back in 2009 through 2012 and then more recently in 2015.

You have provided evidence that you did comply with one of the orders regarding a dog named “Cagney” as he was seen by a veterinarian. However, there was still concern that the other orders were not being complied with and ultimately a warrant was obtained and executed on September 19, 2016.

#### *Condition of the Animals at Seizure*

Dr. Walton attended during the warrant and his findings are compiled in his report dated September 25, 2016. Dr. Walton did an onsite examination of all of the Animals and summarized the issues for each animal. In making my decision, I rely on the entire report, but for the purposes of this decision I will only refer to some key comments. In summarizing his findings Dr. Walton concludes:

*Many of the animals in this facility were suffering a level of emaciation inconsistent with their overall health. There was very little evidence noted of daily care of these animals as many had elongated nails. There is evidence in both the generalized alopecia and dermatitis on the tail head that these animals recently suffered from significant outbreak of fleas, and that the fleas were poorly controlled. Currently only a few animals had fleas, suggesting recent treatment, but not before the animals had significantly traumatized themselves. Feces also contained tapeworm segments of diplyidium caninum, a tapeworm acquired from consuming fleas.*

*I cannot stress strongly enough the level of dental disease was not only easily visible and by smell, but also elicited a significant pain response when the mouth and muzzle were handled.*

*Overcrowding was a consistent issue in all areas of the facility. Water was inconsistently supplied. A strong odor of urine and fecal material was present throughout the facility. Many of these animals would be eligible for euthanasia if dentistry and pain relief cannot be made available to them.*

*The current physical condition of the animals, the lack of basic hygiene, both for skin, nails and especially teeth. The lack of medical care for the animals with severe dental pain and dental decay, easily observed eye problems, and animals with what appears to be untreated heart disease (I observed no heart medications, nor treatment records onsite, though they could have been missed.)*

As time was of the essence in this case, given the number of animals involved and the desire to mitigate costs, Dr. Walton was requested to provide a preliminary report. I have been told that he has since examined the animals but I have not seen a report as it has not yet been completed. I feel though that I have enough medical evidence in combination with other evidence to make my decision and thus, I did not feel the need to wait for additional medical reports as delays in this particular case are costly. Additional details are provided in the initial BC SPCA medical care records and confirm Dr. Walton’s onsite initial observations.

Three dogs in particular have grooming reports that were provided to me. The level of neglect noted, in particular in the Pekinese and the Cocker Spaniel, was significant and speaks to the general theme that these Animals were not getting the level of care that they required. This is an understatement in some cases. While you have provided me with photographs of medications or over the counter products and some medical records, it is clear from the veterinary reports and the grooming reports that whatever you were doing was not enough. In fact, in some cases, it did not even scratch the surface of what was enough and as a result these animals suffered greatly.

In note that deceased animals were also recovered from your Property, but as I do not have the benefit at this time of the necropsy results, I am unable to comment further on this fact.

### *Property*

In this particular case, due to the excellent video footage captured at the time of the warrant, I was able to get a much better sense of the conditions of the Property and the housing of the Animals than I am normally afforded when reviewing seizure cases. The first thing that stood out to me is that, like the photographs you sent me, some of the main living areas *for people* (emphasis added) were clean, free from debris and in stark contrast to some of the other houses I have seen where similar number of animals are being kept. Unfortunately, while the people residing in the residence were provided with an enriched, relatively clean in areas, the situation was not the same for the Animals. Viewing the video footage was hard in some parts, as I got a clear picture of crate after crate after crate, some stacked on top of each other, full of dogs and livestock. Some dogs were forced to share a crate that was too small for them to comfortably lie down and stretch out. While some of the crates had bedding, others did not. While some had food, others did not, While some had water, others did not. The common denominator here is that 45 dogs were primarily being housed in crates meant for travel, temporary confinement or as a sleeping den.

The areas where the cats were being kept, while not containing crates for the cats, definitely could not be described as clean and suitable. One only had to view the overflowing litter box and the empty food and water dishes to recognize that this was not an adequate or suitable environment for the cats. Watching what can only be described as a skeletal looking black cat find access to a bag of food and dive in to eat provided a clear picture of inadequate food for some of these animals.

While I could go into more detail, I will conclude with comments on the living conditions for the Animals by saying that I rely on all of the video and photographs in making this decision.

### *Conclusion*

I have reviewed all of your submissions and it is clear that you believe that you have done everything you can for the Animals. In your submission, you are running a rescue (somewhat ironically named 1Atatime) for these animals. However, "rescue" by definition means "an act of saving or being saved from danger or distress." I have also listened to various media interviews where you have described to the media how you are committed to your rescue and have not taken in any more animals in the past year or so. Thus, the argument cannot be made that you "just rescued" these Animals and had not had time to yet relieve all of their distress. These Animals have been in your custody for some time and while I am not making any comments on what condition you took these animals into your "rescue", the evidence as presented above clearly demonstrates that they have not been "saved from distress" but rather maintained in a varying state of distress. I am not suggesting that you intentionally kept these Animals in a state of distress. What I am saying is that you, as the person responsible for these Animals, failed in your legal duty to first relieve them of distress and then to care for them in such a way that you are protecting them from circumstances that are likely to cause distress.

Of grave concern to me is that some of the Animals taken into custody in September are the very same animals that were returned to you in 2012. The BC SPCA did not have legal authority to keep the animals removed from you in 2012, but we had in the very least hoped that you would have learned your limits in the number of animals you could properly care for. It saddens me that we could have placed those animals into loving families back in 2012 in a matter of days or weeks. Instead, they were returned to you and we could only hope that you would take your duty as a person responsible, and as a rescue, and not only keep them free from distress while in your care, but find them a new home. Unfortunately, that did not happen.

This same option has been given to you in this particular case, and not only by the BC SPCA but by other individuals as set out in the ITO. The BC SPCA could provide these Animals with the critical

medical and emotional treatment that many of them need and then find them homes. You have refused this option which to me suggests that, contrary to what you argue, you have only your best interest in mind and not the best interest of the Animals. Admittedly, you have acknowledged that you were overwhelmed and had apparently limited the number of animals you were actively acquiring. However, when offered assistance you refused and argue that the BC SPCA does not have the same “adoption standards” as you do. In reading your submissions, I read your adoption contract and I find it particularly interesting to note that you hold your adopters to a higher welfare standard than you do yourself. For example, part 5 of your agreement states that “a dog may be crated for no longer than 8 hours in a 24 hour period, such crate shall be large enough for the dog to stand, turn around and lay comfortably on its side.” The video and photographs, along with the sheer number of dogs in your care in crates demonstrate that you were not meeting your own adoption criteria. In part 6 of the contract, you state that “the animals shall not be allowed to become obese or grossly underweight” and go on later to state the animals must “have adequate food, water and shelter at all times.” It is evident from Dr. Walton’s report that you were not meeting these requirements for numerous Animals in your care.

I bring this up not to critique your adoption criteria. In fact, I think that on the whole the agreement is a reasonable one and, by and large in line in spirit with what the BC SPCA expects in their adoptions. I bring it up for two reasons, the first being that it demonstrates that you know what the basic level of care an animal deserves. The second is that looking at your adoption criteria, a good argument could be made that you would not adopt an animal to yourself given your current circumstances. So my question becomes, how can you argue that, given your current situation, it would be in the best interest of the Animals to be returned to you, especially when the alternative being presented is that they will be treated for their medical and emotional conditions and placed into loving homes in a relatively short time?

In light of all of the above, I do not feel that it is in the best interest of the Animals to be returned to you as I do not feel that you will be able to keep them free from distress pursuant to s.9.1. In addition, I do not believe that given your past history, you would make good on your submissions that you would find homes for the Animals (or at least for the majority of the Animals in a timely fashion). Finally, I am not satisfied that you would be cooperative with the BC SPCA in the future to assist with ensuring that animals in your care are being kept free from distress according to the law. Wanting to save animals by running a “rescue” is a very laudable mission and not an easy one nor a cheap endeavor as anyone who has done so successfully will tell you. I truly believe that if you had run your rescue as your name suggests – taking one animal at a time from a situation where it is not wanted and finding a good home for it in a short period of time – we would not be in the situation we find ourselves now.

## **IX. The Society’s Evidence**

*Dr. O’Sullivan*

23. A report by veterinarian Dr. Joseph O’Sullivan was submitted into evidence in the Society’s materials (BCS stands for Body Condition Score). The report dated September 23, 2016 outlines his veterinary findings regarding several farm animals he examined at the Society’s Surrey facility following the removal of the farm animals from the Appellant’s care (Dr. O’Sullivan did not examine the dogs and cats or turtle):

This report outlines the findings of full veterinary examinations carried out on farm animals under protective custody at the Surrey SPCA site, including sheep, goats, one miniature pot-bellied pig and a number of chickens and ducks.

Surrey SPCA Visit 09/23/2016

I will begin by presenting each animal examined and then elaborate and discuss my physical examination findings.

Case 1: White Male Goat.

- Adult Male Saanen Goat. Entire. All Permanent incisors present - greater than 3 years old.
- Under-conditioned- BCS 1.5/5
- Systemically healthy, TPR normal, MM - Pale pink and moist, LNs palpate normally, hydration status normal, rumen fill good, contractions strong and regular, faeces normal.
- Hooves slightly overgrown - no apparent lameness, no other pathology of foot noted.
- Seborrhoeic skin, flakes of dandruff noted, no lice seen but suspect presence

Case 2: Black & White Male Goat.

- Adult Male Dwarf X Goat. Entire. Approx 2 years old.
- Under-conditioned- BCS 1.25/5
- Systemically healthy, TPR normal, MM - pale pink and moist, LNs palpate normally, hydration status normal, rumen fill good, contractions strong and regular, faeces normal.
- Seborrhoeic skin noted, Lice noted.
- Hooves slightly overgrown - no apparent lameness, no other pathology of foot noted.

Case 3: White Ram

- Adult Blackface X ram. Entire. Approx 1 year old.
- Under-conditioned – BCS 1.25/5
- Systemically Healthy, TPR normal, MM - pink and moist, hydration status normal, LNs palpate normally, rumen fill good, contractions strong and regular, faeces normal
- Hooves slightly overgrown - no apparent lameness, no other pathology of foot noted.
- Friendly

Case 4: Black Pot-bellied Pig

- Adult Miniature Pot-Bellied Pig. Entire- Boar. Hard to estimate age - however tusks very well developed so would imagine > 1.5 years old. Advised beware of tusks
- Unable to carry out full physical examination due to temperament
- Good condition score- 2.75/5
- Appears systemically healthy -MM pink, Resp rate normal, no apparent nasal/ocular discharge, faeces normal, no apparent skin lesions - hair on face thin in areas, suspect normal as not pruritic however advised could treat with ivermectin if worried about sarcoptic mange.
- Lameness noted while walking- grade 1/5 intermittent lameness on right hind. Gait and conformation appear normal. Apparently noticed before handling.

Case 5: White Ewe with Merle face

Adult X Ewe

- Under-conditioned- BCS 1.75/5
- Systemically Healthy, TPR normal, MM - pink and moist, hydration status normal, LNs palpate normally, rumen fill good, contractions strong and regular, faeces normal

Case 6: White female goat (Lacking Muscle Mass)

- Adult saanen X doe - > 3 years old
- Under-conditioned- BCS 1.25/5
- Difficulty rising. Crepitus noted in both hocks indicating presence of arthritis. Muscle atrophy both front and hind-limbs, most noticeable on hind-end, gluteal and quadriceps musculature atrophied either from disuse, neurogenic, other.
- Seborrhoeic skin noted, lice visible in coat.
- Hooves slightly overgrown - no other apparent foot pathology.
- Otherwise systemically Healthy, TPR normal, MM - pale pink and moist, hydration status okay, LNs palpate normally, rumen fill good, contractions strong and regular, faeces normal.

Case 7: White Ewe

Adult Leicester X ewe - Approx 1 year old.

- Under-conditioned BCS 1.5/5
- Systemically Healthy, TPR normal, MM - pale pink and moist, LNs palpate normally, hydration status good, rumen fill good, contractions strong and regular, faeces normal.

- Central permanent incisors fractured - no pulp exposure and covered with dentine. Advised monitor to ensure ewe is eating/drinking normally.
- Hooves slightly overgrown - no apparent lameness, no other pathology of foot noted.

Case 8: White Doe (kempt coat)

Adult saanen doe > 3 years old

- Mildly under-conditioned BCS - 2/5
- Systemically Healthy, TPR normal, MM -pink and moist, hydration status normal, LNs palpate normally, rumen fill good, contractions strong and regular, faeces normal
- Hooves slightly overgrown - no apparent lameness, no other pathology of foot noted.

Case 9: White Doe (unkempt coat)

- Adult saanen X dwarf doe - approx 3 years old
- Faeces slightly loose- not liquid but abnormally soft
- Otherwise systemically healthy, TPR normal, MM pink and moist, LNs palpate normally, hydration status normal, rumen fill good, contractions strong and regular.

Case 13: Brown Hen

- Adult Rhode Island Red hen
- Appears to be moulting
- Caking of faeces around cloaca - evidence of diarrhoea potentially
- Slightly under-conditioned- keel prominent

Case 14: Bantam Rooster

- Adult Bantam Rooster
- Evidence of knemidocoptes scaly leg mites
- Slightly under-conditioned- keel prominent

Case 16: White Duck

- Left orbit- no eyeball apparent, ocular discharge, conjunctivitis present- suspect traumatic (fighting), infectious other, tough to discern cause.
- Advised treat eye with topical antibiotic and steroid ointment - monitor resolution.
- Otherwise in apparent health

I examined 8 birds in total. The three cases listed are cases in which I noted abnormalities on physical examination. Other than that noted, all birds were of adequate condition score (1.5-2 on a scale of 0-3). No evidence of respiratory disease. No evidence of gastrointestinal disease. No evidence of lameness. Little evidence of knemidocoptes, however no mites seen.

**Discussion:**

**1) Body Condition Score**

The most consistent finding on examination of these animals was a low BCS. A normal body condition score is 2.5-4.0. The majority of sheep and goats varied between 1.25 and 2 in condition score which is an indication that managerial intervention is necessary - whether it be deworming, supplemental feeding, addressing disease, etc.

Physical examination yielded little or no signs of systemic disease in the vast majority of animals apart from a low BCS. Age was determined by assessing whether adult incisors were present or not. A number of animals seemed younger/smaller than their teeth indicated so there potentially was an element of stunting.

Faecal samples were taken from each of the groups of animals. One goat on which loose stool had been noted displayed a small number of strongyle eggs and eimeria species (coccidiosis). Otherwise there was very little evidence of a worm burden in these groups.

The most likely cause for the low condition score in this case is inadequate nutrition, be it type, quality or amount. It is hard to comment further as I do not have knowledge of the nutrition being provided.

**2) Ectoparasitism**

A number of goats were noted to have evidence of pediculosis (bovicola sp. - biting lice) -pruritis, unkempt/rough coat, dandruff/seborrhoea, visible lice.

Pediculosis is not an uncommon finding on goats especially in autumn to early spring.

### 3) HoofCare

The vast majority of the hoofs were mildly overgrown. No lameness noted to be caused by such overgrowth and trimming will easily be corrective.

### 4) Behaviour

All of the animals displayed normal behaviour. The sheep and goats were accustomed to human interaction and handling. Quite a few were friendly to the point of approaching humans comfortably. The pot bellied pig displayed normal behaviour for a boar- allowing approach but not excessive handling.

*Advice to SPCA officers:*

- Goats and sheep should eat approx 4-5% body weight of dry matter/day (having adequate carbohydrate and protein content). In a 40kg animal this would equate to approx 2kg quality hay. Supplementing with grain will lower this amount. Advised feed alfalfa hay and water for initial week then introduce small amount of grain (1/4-1/2 cup daily) so as to not cause overload. With no signs of parasitism or systemic disease they should manage just fine on a good quality hay with little grain supplementation.
- Advised monitor for fevers, nasal or ocular discharge, coughing/sneezing, inappetance, lethargy, etc. as pneumonia could be a sequel of stressful situation involved in seizing and moving the animals.
- Treat Pediculosis with Eprinomectin pour on - will cover for both intestinal worms and ectoparasites. Off-label use in goats---however will be effective.
- Trimming hooves not a priority but recommended.
- Monitor lameness on Pig. Mild lameness -may be acute (Soft tissue injury/trauma) or may be chronic (Arthritis). If persists then can consider Anti-inflammatory therapy.
- Advised feeding pig small amount of concentrated feed and plenty leafy green vegetables to ensure weight stays where it is. Plenty fibre. Very easy to overfeed.
- With regards "Case 6" I advise to monitor that she is able to rise unassisted. It will take time for the muscle mass to build back up (unless this is a spinal issue in which case the atrophy may persist and/or worsen) but time and self rehabilitation should be sufficient. If the goat seems painful on rising then Anti-inflammatory therapy can be considered however I feel this will not be necessary
- With regards the fractures incisors I again advised to monitor for pain, reluctance to grasp forage and further weight loss. As no pulp is exposed there should be little or no issue.
- I advised to monitor for diarrhoea in the brown hen. May be parasitism, infectious gastroenteritis/colitis or simply stress/change in diet/other systemic disease. If persists then can deworm and treat for infectious causes.
- I advised to treat all chickens with eprinomectin (again off label use) for knemidocoptes or scaly leg mites. None badly affected but evidence on some.
- Advised treat the white ducks eye with topical antibiotic and steroid ointment. May normalise however if protective mechanism of eye (third eyelid) affected then may have chronic infection. Monitor response to treatment.

24. Dr. O'Sullivan is a veterinarian licensed to practice in BC. His evidence, which I accept, confirmed his report was an accurate assessment of the animals listed in the report, which he examined.
25. Dr. O'Sullivan explained that body condition scores were a description of fat coverage on an animal. He assesses small animals on a scale of 1-9; large animals on a scale of 1-5. He assesses using quarter-points. The assessment is subjective and there are discrepancies between people but normally if one person does an assessment, it is "pretty accurate". Below two in a farm or

production animal is an under-conditioned animal without adequate fat coverage. He said in layman terms, the animal was skinny.

26. Dr. O'Sullivan said the duck was missing its eyeball and the cause of the trauma was unknown; he has seen this before. Typically, if the membrane is intact, one would treat the infection as the orbit can become chronically infected. Sometimes the eye is sutured closed. He has advised treating the infection and determining whether further treatment is then needed.
27. Birds are BCS assessed on a scale of 1-3 by looking at the degree of muscling in the breast. A result of 1.5 or more is good and 1.25 is adequate for a chicken.
28. Dr. O'Sullivan testified that due to low BCS in the animals, managerial intervention was required and the situation needed to be rectified. Causes of low BCS include lack of absorption or a disease process that uses energy. The cause needed addressing and intervention.
29. The goats had some evidence of stunting as evidenced from their teeth and size; a cause of stunting is the lack of nutrition and minerals.
30. In Dr. O'Sullivan's opinion, which I accept, the most likely cause of low BCS and stunting was the lack of adequate nutrition as he found no evidence of systemic illness. There was no cause for these animals not to thrive. The few parasites noted in fecal studies would not cause the low BCS problem. Nutrition would be near the top of the list for causation. Since there was no systemic disease to treat and no de-worming needed, adequate nutrition should bring the animals back to health. The overgrown hooves were common and not of a large concern to him in the grand scheme of things. The advice he provided to the Society in his report was the same he would give any owner.
31. Under cross examination, Dr. O'Sullivan was asked to review photographs and said it was hard to tell from a photograph what BCS an animal had as ribs and leg muscling were hard to make out. Looking at a photograph the alopecia stood out for him. He said looking at photographs, intervention was possibly needed as it was hard to give an opinion based on a photo.
32. Dr. O'Sullivan testified that stunted animals are assessed by size, and estimates from teeth, weight, height, development, and reproductive development. The vast majority of development is in the first six months of life and can be caused by poor nutrition but continued inadequate nutrition can cause stunting after six months as well.
33. Dr. O'Sullivan stated that he did not have a lot of experience with animals available at auctions but there were no veterinarians at BC auctions and he would like to see veterinarians there. There is no screening for illness at auctions; he has treated ill animals from auctions and the majority of those suffered from pneumonia from the stress of the auction.
34. Dr. O'Sullivan stated that delousing powder is not as effective as other treatments but many people use it and after use, one can still find lice. Other oral and injectable medications are proven lice killers. If an animal is deloused with powder and lice are subsequently found, he would recommend using something else.

35. Dr. O’Sullivan said that the behavior of the large/farm animals he saw from the seizure was not abnormal and one sheep was friendly.
36. Dr O’Sullivan stated that the sheep and goats eat alfalfa and grass. They are small ruminants that thrive well on forage alone and those on a grass pasture can be supplemented with hay or concentrated feed to increase carbohydrates and protein. Being fed grass and text, they should thrive.
37. Dr. O’Sullivan was taken through some photographs and stated that the three goats in the pasture looked like there was sufficient green pasture and that those goats did not appear to be in critical distress, but it was hard to judge by a photo. He stated that it appears there was sufficient food from the photo but it was difficult to make a negative or positive comment. He said the manger and covered area appear to have shavings on the ground and appear clean but it’s hard to say how many animals were using that area. He saw nothing abnormal from the photo of the ducks, other than a wing feather sticking out. The goat photo was hard to comment on as he saw pasture but also saw a lot of debris and no fence.
38. When asked to watch a video of the pig and comment on lameness Dr. O’Sullivan said he could not appreciate any “huge lameness” and it was not obvious to him but lameness needed to be assessed over a longer period of time and slight hesitancy was seen in the pig at 24:24 in the video; the pig’s lameness was Grade 1 and needed to be assessed over a longer period of time. Dr. O’Sullivan agreed that in one clip of two birds there was no aggression and they drank water together, but he also commented that aggression is not necessarily seen all the time.
39. In response to my questions regarding space required for the animals, Dr. O’Sullivan stated that one acre equals one unit and for maximum stock rate one pig and 4 goats and 4 sheep would need 1.5 to 1.75 acres (one acre is about 4,000 square metres). When asked if 625 square meters is adequate for these animals, he said that is about one-quarter acre and for maintaining animals on forage in that area, it did not sound adequate. Dr. O’Sullivan explained that to maintenance feed the animals back to adequate body score would take a long time but if enough forage was provided over two-to-three months, some improvement would be seen, likely within a month or so. In a month or so one would see animals go from 1.5 BCS to 2 BCS, with over 2 being acceptable though 2.75 – 3.25 is optimum. One good acre of good quality grass would be needed for 5 goats or sheep. Dr. O’Sullivan is inclined to the view that as long as the animal is gaining weight - even with a low BCS where it is not hungry and it is getting adequate nutrition - then that is “adequate nutrition” to gain weight. He saw no indication of dehydration and on physical exam the animals’ vital signs were adequate. There was no evidence of extreme exposure to temperatures either hot or cold.
40. On final questioning from the Society Dr. O’Sullivan confirmed it was not acceptable to keep farm animals such as a goat in pasture without a fence on the roadway, that a fence was needed along the roadway. Dr. O Sullivan also said, with regard to the dark underside of the white goat, that it was hard to determine if it was caused from urine staining or lying down; if it were urine staining, it should not be lying in a soiled area.

*Dr. Adrian Walton*

41. Dr. Walton is a veterinarian licensed to practice in BC. He is not “Board-certified” but does examine a lot of chickens and gets calls from a Poultry Association and has worked with chickens

for ten years, in addition to his work with companion animals. He also has an exotics practice and deals with a wide-ranging avian population.

42. The Society provided a copy of the September 25, 2016 report written by Dr. Walton. As noted above, Dr. Walton was present at the September 19, 2016 seizure.
43. Before I set out Dr. Walton's evidence, which I accept, I will note at the outset that the Appellant questioned Dr. Walton on his independence. The Appellant provided copies of Facebook postings on Dr. Walton's clinic's Facebook page, which he confirmed were his, where the Appellant indicated he had defended the Society and that one of the Society's Special Provincial Constables had also become involved in the debate amongst followers of the page. Credibility of a witness, of course, is an issue for me to decide. The Appellant did not present adequate persuasive evidence to lead me to a finding that Dr. Walton's testimony was coloured by a lack of objectivity. In fact, far from it. Dr. Walton's evidence was in my view fair and believable and credible. Part of my confidence in his testimony was that he himself acknowledged that deciding on body condition scores was somewhat subjective and that another veterinarian may come to another score without negating his own assessment.
44. Having set out my views on Dr. Walton's credibility, I will simply state that it is, in my respectful view, unwise for witnesses or parties or employees of parties to an appeal to debate or comment on the merits of a case under appeal on social media, even if the person is acting with the best of intentions to present what they may feel is the truth.
45. Dr. Walton accompanied the Society to the seizure and assessed every animal. Dr. Walton's report is reproduced here, both because of the summaries and conclusions Dr. Walton draws, and because it provides animal-by-animal examination results, which I accept as accurate:

At the request of the BCSPCA I was asked to attend a site inspection in Langley British Columbia on Sept 19, 2016. RAHT Gabrielle Beer assisted. Facility was a 3-bedroom bungalow with an attached garage. Fenced in backyard.

**Sheep, Goats and Pot Bellied Pigs:**

All these animals were underweight upon presentation. Feed was not noted present for any of these animals, and water was inconsistently available. Housing pens were too small for holding the number of animals present, and in one case the animal back was touching the roof of the kennel that it was being confined in.

A rough estimate of approximately 625m<sup>2</sup> of pasture (estimated from Google Earth imaging), supplied to 1 pig, 4 goats and 4 sheep. This is far from sufficient to supply nutrition and therefore these animals must have supplementary feed. During my inspection there was no hay available to any of these animals, and the pasture was insufficient to meet their daily needs.

Please refer to [https://www.nfacc.ca/pdfs/codes/sheep\\_code\\_of\\_practice.pdf](https://www.nfacc.ca/pdfs/codes/sheep_code_of_practice.pdf) for standards of care for sheep, requirements are similar for the goats, however the NFACC guidelines for pigs is inappropriate guidelines for pot belly pigs due to variation in size.

**Chickens, ducks, and pigeons:**

Majority of these animals were found underweight. This was ascertained by feeling their keel, ie breast bone. A normal bird will have a large muscle mass present, not only as this is the muscle that powers flight, there has also been hundreds of years of selective breeding to make this muscle large. On physical examination, the breast bone was very prominent. On at least one animal there was evidence of scale mite disease, a highly infectious disease that causes thickening of the epidermis covering the feet and legs and

one other was open mouth breathing, though I am unable to ascertain if the respiration difficulty was secondary to stress or disease. Ducks, are semi aquatic animals and should have access to standing water so as to perform their normal behaviours, and was not available to either of the ducks found. Many of these animals were kept in extremely small cages, however the cages sizes do meet current standards for poultry albeit just barely. [http://www.nfacc.ca/pdfs/codes/poultry\\_code\\_EN.pdf](http://www.nfacc.ca/pdfs/codes/poultry_code_EN.pdf). However the inconsistent presence of food and water, and the poor body condition scores make conditions unacceptable.

#### **Cats:**

Cats were being kept in three areas, the first was a 3m x 4m bedroom. A strong smell of cat urine was present in this room, requiring the opening of a window to ventilate the area once the cats were confined. Urine and feces was found on most horizontal surfaces, and all the litter boxes were full of urine and feces. No food was noted and when fed the animals were extremely ravenous. On the east wall there was a scratching post ~ 1/2 m from the wall, a 10 cm hole in the wall was at the level of the top of the scratching post. To insure no animals were in the crawl space a cell phone video was taken to insure the crawl space was clear. It was but it did present a significant risk to the animals. All the cats in this room were body score 1 or 2 out of 9. There was no obvious reason for this level of emaciation. I am recommending Felv and FIV testing on all these animals. Care should be taken to insure no ringworm is present, though none of the animals showed skin lesions consistent with ringworm. The other areas were the main bedroom and a bathroom. There were three cats here, one (BDC 44) was considered to be healthy and normal weight. The other two cats were underweight and taken by the BCSPCA

#### **Dogs:**

Dogs were located in every room other than the cat room and bathrooms. In most cases animals were being kept in assorted vari-kennels, most of which were too small for the size of animals kept within. Most of the animals were older but their age does not account for the level of emaciation noted in the majority of the animals examined. Severe dental disease, with exposed tooth roots were a common finding. You will see spread throughout my notes the term mild, moderate and severe dental disease. Mild Dental Disease - tartar is accumulating on the teeth, to varying degrees, gums do not appear to be inflamed and there is no gingival recession forming. No loose teeth, no fractured teeth present. A dental is recommended for these animals, but as this is a common presentation, its more for dental management then a requirement Moderate Dental Disease - These animals will have significant tartar accumulation, tartar will be starting to weaken the roots of the teeth, and gums are starting to recede. There might be a little bit of gingivitis, but there is no pain associated with pushing on the teeth or gum line. There might be some fractured teeth, but those appear to have developed a dentin plug whereby there is no pain associated with pushing on the teeth or sensitivity to cold water. These animals do require a dental to control and prevent worsening of their dental disease, there may be dental pain present (and there likely is) but it can currently be managed. Animals showing reticence to eating should be provided with metacam or other Non-steroidal anti-inflammatories. Severe Dental disease - These animals have severe dental tartar accumulation in the mouth, for many of these animals there has been so much gum recession that the roots of the teeth are exposed and the animal is suffering from severe mouth pain. These animals require dentistry ASAP to relieve distress. Pain control will only be able to ameliorate to a certain level. In layman terms, these animals are in severe dental pain, and pain medications can only blunt the pain, the only long term control is to extract the affected teeth.

#### **Conclusions:**

Many of the animals observed in this facility were suffering a level of emaciation inconsistent with their overall health. There was very little evidence noted of daily care of these animals as many had elongated nails. There is evidence in both the generalized alopecia and dermatitis on the tail head that shows that these animals recently suffered from significant outbreak of fleas, and that the fleas were poorly controlled. Currently only a few animals had fleas, suggesting recent treatment, but not before the animals had significantly traumatized themselves. Feces also contained tapeworm segments of diplotyidium caninum, a tapeworm acquired from consuming fleas. I cannot stress strongly enough that the level of dental disease was not only easily visible and by smell, but also elicited a significant pain response when the mouth and muzzle were handled.

Overcrowding was a consistent issue in all areas of the facility. Water was inconsistently supplied. A strong odor of urine and fecal material was present throughout the facility. Many of these animals would be eligible for euthanasia if dentistry and pain relief cannot be made available to them. The current physical

condition of the animals, the lack of basic hygiene, both for skin, nails and especially teeth. The lack of medical care for animals with severe dental pain and dental decay, easily observed eye problems, and animals with what appears to be untreated heart disease (I observed no heart medications, nor treatment records onsite, though they could easily have been missed).

South yard 1 - White Billy goat. Underweight. Body condition score 2/9

South Yard 2 - White Billy goat. Body condition score 2/9, skin lesions on dorsal. Possible rain scald

South yard 3 - Ram. Body condition score 2/9, elongated back toes, needs trimming.

South yard 4 - Pot belly pig. Animal is moderately lame on the right hind leg. Right tusk is overgrown.

Needs veterinary examination of the leg, also recommend trimming of the tusk.

Garage 5 - Sheep female. Located in a plastic dog kennel, extra-large. Dimensions 40 inches long by 27 inches wide by 30 inches high. Body condition score 3/9. No food or water noted. Hay bedding was present. Vagina appeared inflamed or irritated

Garage 6 - Female sheep white coat. Body condition score 2/9. Kennel chewed on by the lock. No food nor water was present. Was found a large dog kennel made of plastic.

Garage 7 - White sheep. Found a large wire crate. Animal not able to completely stand up. No food or water was present. Body condition score 4/9. The wire metal door of the cage was pushed outward by the animal

Garage 8 - White goat. Oral exam shows overgrown teeth and swollen jaw. Will need to be assessed by a large animal vet. No water was present nor was food available.

Garage 9 - White goat. Water was present but no food was available

Garage 10 - Black hen. Body condition score 2/9. Prominent keel. Small amount of water was present but no food was noted. After handling, noticed that the animal was open mouth breathing. Was being kept in a small black wire crate.

Garage 11 - Fancy rooster. Being kept in a medium cockatiel cage. Body condition score was 2/9. Tail plumage was eroded and the waddle was dull.

Garage 12 - Polish rooster. Scaly leg mite was noted on both feet. Recommend applying small cat/kitten revolution prior to release into flock.

Garage 13 - Brown hen. Body condition score 1/9. No food was noted in the cage the water was present. Cage dimensions were 3' x 18". Plumage was poor with the rough tailfeathers

Garage 14 - Rooster-silky type. Body condition score 1/9. This animal also had a rough tailfeathers. Was being kept with a duck (G15). No water was present in the cage. Cage consists of a large wooden and wire crate

Garage 15 - Duck. Body condition score of 5/9. This animal was being kept with a rooster. No water was present for this animal to swim in. Cage consisted of a large wooden and wire crate. Being kept with G14

Garage 16 - White duck. Body condition score 1/9. This animal is missing its left eye, but it has granulated in and is not currently an active lesion. Was being kept in a wooden and wire crate. No bathing water was present though food and water was seen.

Garage 17 - Black and white duck. Body condition score 4/9. This animal has rough tailfeathers and was seen to be aggressive to duck #16. Was being kept in a wooden wire crate. No bathing water was present the food and water was seen.

Garage 18, 19 and 20 - Three doves being kept in one large cage dimensions 36 inches wide by 24 inches deep and approximately 6 feet high. Plumage was normal. Respiration was normal. But all three animals were underweight with a body condition score of 2/9.

Garage 21 - Pigeon. Body condition score 4/9. Missing or rough neck feathers. This is a sign of inter-animal aggression as the location of the lesion is impossible for the animal to reach by itself. Both animals had enlarged crops consistent with gorging. Was being kept in a black wire crate with dimensions of 20" x 18"

Garage 22 - This pigeon was being kept with number 21. Its plumage was very good. Its body condition score was 4/9. Both animals had enlarged crops consistent with gorging. Was being kept in a black wire crate with dimensions of 20" x 18"

Garage 23 - Cat: Calico/Torti female body condition score of 3/9. Water was present no food. In a wire cage two levels high, dimensions of 30" x 36" x 36".

Garage 24 - Cat: unable to sex due to aggression. Animal is a manx (shortened tail). Body condition score 2/9. In a wire cage. Cage had two levels and the dimensions were 30" x 36" x 36"

Garage 25 - Dog: retriever cross. Name "Cagney". Female. Moderate dental tartar. Animal was tachycardic but no arrhythmia nor murmur was noted. No skin lesions were noted. Body score of 1/9. No water or food was present. Being kept in a large black and wire crate. Being kept with animal G 26.

Garage 26 - Neutered male dog. Retriever cross. Body condition score 2/9. This animal had elongated nails and moderate dental tartar. Its left popliteal lymph node was enlarged. The left pinnae had an ulcerated scab

of 1 cm by 8 mm. No water or food was present. Being kept in a large black and wire crate. Being kept with animal G 25.

Garage 27 - Pointer-cross female dog. Goes by the name of "Lacey". Body condition score 2/9 moderate dental tartar was present. The animal had bilateral ocular discharge. Right canine tooth, #104, had moderate wear on the caudal aspect of the tooth. This damage is consistent with chewing on wire or kennel bars. Tattoo present MJA 259 or 8. Animal had elongated nails on the hind end. Noted a grade 2 heart murmur worse on the right side apex.

C 28 Cat neutered male domestic short hair orange/white. Body condition score one or 2/9. No thyroid blip on neck. Alopecia present on the base of the tail. Bilateral ear debris: a veterinarian will need to check for mites at a later date. Moderate dental tartar was present.

C 29 Cat neutered male black domestic short hair. Body condition score 2/9. Marked scabbing of the ventral neck. Marked scabbing on tail head and on the face behind the eyes

C 30 Cat domestic short hair black body condition score 1/9. Bilateral ear debris. Tattoo is present but cannot read due to the cat being aggressive

C 31 Cat Black domestic short hair female. Body condition score 2/9. Scabbing is present along the tail head. Heart was within normal limits, otherwise normal.

C 32 Cat domestic medium hair Brown tabby body condition score 1/9. Animal has alopecia and there is evidence of fleas flea allergy dermatitis on the tail head. Hepatomegaly or enlarged liver noted on abdominal palpation. Right eye has mild ocular discharge. Minimal dental tartar was present

C 33 Cat, domestic medium hair, black, neutered male. Body condition score 1/9. Possible has hepatomegaly. Alopecia on the tail and tail head though no flea dirt was seen. Right eye had mild ocular discharge, and minor dental tartar was noted.

C 34 Cat domestic short hair neutered male. Body condition score 1/9. Alopecia present on both carpi, Secondary to licking possibilities include stress licking or arthritis of the joints. Bilateral alopecia of the ears was noted.

C 35 Cat domestic short hair gray/white. Female. Body condition score 2/9. Flea allergy dermatitis noted on tail head. Mark scabbing of the fore head, ventral neck, and behind the right ear.

C 36 Cat female. Domestic short hair. Tortie. Body condition score 1/9. Scabbing noted on tail head. And alopecia on tail.

C 37 Cat. Black domestic short hair. Female. Scabbing noted on the tail head, forehead, in behind both ears.

C 38 Cat domestic short hair. Black and white coloration. Appears to be a juvenile female. Body condition score 3/9.

C 39 Cat. Male neutered. Black domestic short hair. Body condition score 2/9.

C 40 Cat. Black. Domestic short hair. Body condition score 1/9. Hind end alopecia and scabbing noted.

C 41 Cat. Orange/white. Domestic short hair. Male neutered. Body condition score 2/9. Hair loss on tail head, no scabs.

Bathroom

C42 Cat. Orange Domestic short hair. Male neutered. Body condition score 3/9. Noted a mild ocular discharge in the right eye.

Bedroom

C43 Cat. Domestic medium hair. Tabby. Suspect female. Mark scabbing noted around the neck. Body condition score 3/9.

BDC

44 Cat. Female. Domestic short hair. Calico. Body condition score 4/9. No abnormalities noted on physical exam. Cat was not seized.

BDC 45 Dog lab cross. Female. Body condition score 1/9. Moderate to severe dental tartar was present. Mild gingivitis. Long nails were noted as well as a dry and dull coat. Alopecia was noted on both elbows, and the hair was thinning on the hind end. The right popliteal lymph node was enlarged.

BD 46 Dog black and tan Schnauzer cross. Female. Body condition score 4/9. This dog had long nails and moderate dental tartar was noted.

BD 47 Dog Grey schnauzer cross. Neutered male. Body condition score 4/9 grossly elongated nails. Mild underbite was present.

BD 48 Beagle cross. Neutered male. Gray on face. Body condition score 5/9. Mild dental tartar was noted. Mild bilateral nuclear sclerosis of the eyes was noted.

BD 49 Beagle cross neutered male. Body condition score 5/9. This animal had moderate dental tartar, and bilateral nuclear sclerosis of both eyes.

BD 50 Brittany spaniel cross. Female. Body condition score 3/9. Pathological elongated nails causing deformity of the feet. Severe dental disease with hair stuck between the molars was noted. This animal had

bilateral nuclear sclerosis. Tail was docked. Saliva staining was noted on the coat. Dental extractions are possible but a dental cleaning is required.

BD 51 Jack Russell. Half of face is black. Female. Body condition score 4/9. Red staining of the legs and paws was noted. Moderate to severe dental disease is present with the extractions possible.

BD 52 Retriever cross. Neutered male. Body condition score 4/9. Moderate dental disease present. Bilateral cubital ulcers on elbows. Pathologically overgrown nails. Third phalanx of the left front foot has a mass on the toe approximately one cm. Soft 1 cm mass on the sternum, alopecia noted on the ventral midline

BD 53 Jack Russell female. Body condition score 2/9. Animal was completely covered in urine. Alopecia present on face. Severely overgrown nails. Moderate dental disease lymph nodes were normal, dry coat but with a red staining on paws. Animal presented with bilateral ear margins seborrhea.

BD 54 Jack Russell female body condition score 1/9. Red staining present on the legs, dorsum, and belly.

Moderate dental disease was present unable to fully examined due to the dog being nervous

BD 55 Jack Russell cross neutered male. Body condition score 4/9. Appears to be young. Mild staining on the dorsum. Actively allergic dermatitis on the tail head. Bilateral periocular dermatitis was noted nails were moderately elongated.

BD 56 Beagle terrier cross. Male. Body condition score 1/9. Dog presented with hind end alopecia, tail end, dorsum, and inguinal folds. Active dermatitis was present. Moderate dental disease.

BD 57 Jack Russell with long white hair. Neutered male. Body condition score 3/9. This animal found isolated in the front bedroom. It has a grade two out of six heart murmur on the left side. Moderate dental disease was present. Fleas noted and the animal was suffering from perirectal hair loss, as well as hair loss on the caudal aspect of both back legs.

Laundry room

LD 58 Greyhound female with brindle spots. Body condition score 2/9. Fleas present. Moderate to severe dental disease with possible extractions. Scabs were felt along the tail end, dorsum and around the muzzle. Bilateral alopecia on the caudal aspect of the back legs. Two punctate scars approximately 5 cm apart were located on the lateral knee joint and caudal thighs of the right rear leg. A third puncture scar was found on the right lateral pelvis. The animal had elongated nails and the right front to central pad of the foot had a one centimeter wound.

LD 59 Greyhound black neutered male. Body condition score (1 to 1 1/2 )/9. Tattoo MJC 17. Severe dental disease with the possibility of extractions. Fleas present. This animal had muscle wasting's on the left triceps tendon, that connects the shoulder to the elbow.

Hallway

HD 60 Lab. Neutered male. Body condition score 3/9. Scab noted on the rostral nose. Severely elongated nails pathological in nature made walking painful for the dog.

HD 61 Red terrier. Neutered male. Body condition score 5/9. Bilaterally blind. No menace response (doesn't respond to movement near the eye). Thickened right pinnae tip, with bilateral ear margin dermatitis. Bilaterally thick ocular discharge and I suspect this animal is suffering from KCS (Keratoconjunctiva Sicca, or dry eye). This animal will require an ocular workup. Flea dirt was noted on the tail head with dermatitis muscle wasting was noted on the backend.

Dining room

DD 62 Chihuahua with white and brown spots. Mammary development noted so suspect could be an intact female the animal had a body condition score of 5/9. Overgrown nails. Moderate dental tartar as well as gingival recession. The incisors likely require extractions.

DD63 Shitzu White/Brown. Body condition score 2/9. Was very depressed in kennel. Matters for with a potent smell of urine. Overgrown nails were noted all 4 feet This animal had bilateral cataracts and possible KCS on the left eye. This animal requires a dental firm with multiple extractions noted pus was seen coming from the incisors. Jew to the level of depression combined to the dehydration it was elected to bring the dog to duty and will hospital for blood work and IV fluids.

DD 64 Minpin brown neutered male. Body condition score 5/9. Elongated nails all 4 feet. Mild right head tilt, no nystagmus or vertebral symptoms noted. Right ear drooping. Severe dental disease with multiple extractions required severe stomatitis noted.

DD 65 Red cattle dog cross. Neutered male. Body condition score 3/9. Broken canine teeth both upper and lower. No exposed roots and no sensitivity to touch. This animal has dry flaky skin with alopecia bilaterally on the caudal tarsus joints. Alopecia also noted around the eyes. Prepuce is elongated and dangling.

DD66 Pitbull white neutered male. Body condition score 5/9. This animal has a bilateral eye problems. The right eye has severe conjunctivitis and the eyeball is sunken unsure if it is secondary to damage or this animal is microphthalmic. The left eye has no visible eyeball and has scarring around the eye. Granulation tissue present. This animal needs and ophthalmologist consult ASAP. There is staining around the eyes.

There's also red staining all over the animal. There is a 3 cm fine scar on the muzzle just below the right eye. There is a 1.5 cm lump on the left side of the mouth. There is a 2 mm pedunculated lump on the left elbow. This animal is suffering from severe dental disease and full mouth extraction is likely. This animal is in severe dental pain and is exquisitely sensitive to touch around the mouth. This animal needs a dental ASAP to relieve the distress.

DD67 White poodle, neutered male. Body condition score 5/9. Animal spins to the left though no nystagmus or head tilt is noticed. No evidence of vestibular disease, so am assuming the behavior is stereotypical. The animal suffers from pendulous abdomen and a thin hair coat. Hyperadrenocorticism is suspected. The animal has elongated nails and bilateral ocular staining. Severe dental tartar and gingival recession is present.

DD68 Lab cross black and white female. Body condition score 4/9. Mild dental disease presents. Broken lower left canine tooth. Dental wear present on the incisors.

KD 69 Doberman color red. Intact male. Goes by the name of "Peanut". This dog is suffering from a congenital defect of kyphosis, this deformity has resulted in paralysis of the back legs along with severe muscle wasting secondary to lack of innervation. Marked distal flexion of both hind legs. This animal this animal is unable to bear weight. Its body is poorly developed. Its thoracic cavity is half the size of a normal doberman. The animal is presenting in respiratory distress. The thoracic cavity is not moving and the animal is showing signs of abdominal breathing. Gut sounds are present. I am picking up muffled heart sounds on the right side and normal heart sounds on the left. This lack of heart sounds on the right side concerns me as it could be secondary to collapsed lung or diaphragmatic hernia. The small thoracic cavity will result in concurrent decrease in lung volume. The lack of thoracic movement and abdominal breathing could also be concurrent with the kyphosis making normal thoracic expansion difficult. Gums are pale but the capillary refill time is normal. Scarring is present on the nose and there was a pressure sore on the right head of the femur and caudal sacrum. Moderate scarring was present on the tail dock. The animal resisted to being moved over to his right side. When it was flipped over there is a large ulcer on the left head of the femur. In examining its enclosure, it was noted that the animals bedding was only two blankets thus the ulcers on the femur are consistent with pressure sores. The right front leg is functional but the left front suffers knuckling. The animal has no rectal tone and no control of a bladder. Animals found with a soaked diaper that had to be cut off. I am recommending euthanasia under the Critical Distress regulations. This animal is having difficulty breathing, possibly secondary to diaphragmatic hernia, or decreased lung volume secondary to its congenital defects. \*\*\*Addendum - After making the decision for critical distress, the owners of the dog came to pick him up. He was taken to his veterinarian, who contacted me. I was informed by this veterinarian that he had recommended euthanasia when the dog was a puppy, the owner had declined and that the dog did appear to do okay for a while, but that in his opinion the current condition of the animal made long term relief of distress impossible, specifically citing the decreased lung capacity. Animal was euthanized.

DD70 Lab cross, black, neutered male. Body condition score 2/9. Pronounced floating rib on the right side. Animal has cubital ulcers on both elbows. Moderate dental disease was present. The animal is suffering from bilateral carpal hyperflexion. Exudative dermatitis present in the right axillary area. Due to the skin disease it will need to be assessed within 24 hours by a veterinarian.

DD 71 Chihuahua, Brown, female. Body condition score 4/9. This animal is sensitive to pressure on the ventral neck consistent with either collapsing trachea for possible kennel cough moderate dental disease is present. The animal has a grade 5/6 bilateral heart murmur. Due to these issues it will need to see a vet within 48 hours.

DD 72 Dachshund cross, brown/ red, body condition score 2/9. Grade 4 heart murmur on the left side. Mild dental disease and has normal lymph nodes. Alopecia on tail and the long nails.

DD73 Terrier cross. Neutered male, black. Body condition score 4/9. Dog has mild tartar and moderate gingival recession and requires a dental. There is a 1 cm mass on the right front fourth digit. Cytology is needed. Animal is coughing Monitor for kennel cough.

DD 74 Beagle neutered male. Body condition score (2 or 3)/9. Long nails, dry coat. Moderate tartar and severe gum recession. Multiple extractions required dental required. Right popliteal lymph node enlarged right ear thickened. Needs aural exam. Hair loss on the bilateral Tarsus.

DD 75 Pekingese, Neutered male color beige. Body condition score 2/9. Animal has severe conjunctivitis of the left eye as well as a thick mucus left ocular discharge scleral epithelialization has occurred. Suspect KCS. This animal requires an ophthalmology consult. Hundred weakness noted and alopecia of the hind end and abdomen moderate matting noted on hind legs.

DD 76 Beagle/whippet cross. Female. Body condition score 2/9. Moderate dental disease.

DD 77 Chihuahua tricolored female. Body condition score 6/9. This animal has severe dental disease that requires multiple extractions therefore dental is required. Red staining on all four legs. Long nails.  
DD 78 Chihuahua brown female. Body condition score 2/9. Mild ocular discharge from time noted severe dental disease with multiple extractions required.  
DD 79 Beagle cross. Females. Body condition score 2/9. Small warts noted above right eye this and will have severe periodontal disease and extractions are required.  
DD 80 English cocker spaniel. B/W. Body condition score 2/9. This animal is blind bilaterally. No menace response noted. This animal requires blood work to assess if possibly diabetic also monitor water intake. If increased urination noted diabetes is suspected. Severe dental disease, worse on the left side. Minor matting on leg feathers and backend. Moderate to severe matting around nails, with some of the nails circling around into the Pads. This animal will need to be seen by a veterinarian in the next 24 hours. Shortly after the exam this dog developed at epistaxis. A large blood clot came from the right nares, this bleeding has stopped before the animal was brought back for secondary examination. Differentials include tooth abscess, high blood pressure, neoplasia, though other lesser differentials also exist (fungal, viral, foreign body etc).  
DD 81 Shepard lap cross, neutered male. Black color. Body condition score 2/9. Both hind limbs are missing. Severe alopecia around tail head secondary to this animal's ambulatory difficulties to provide relief and mobility for this animal a cart is required.

#### Kitchen

KD 82 Beagle cross, tricolor. Female. Body condition score 6/9. Moderate dental disease present. Being housed with KD 83 Pomeranian cross. Body condition score 8/9. Moderate dental disease.  
KD 84 Terrier schnauzer cross. Black. Body condition score 3/9 heavy matting on pause and tail bilateral no menace response suggesting this animal is potentially blind. Severely elongated nails better pathological affecting the dog gate.  
KD 85 Shiba inu cross. Female. Tan color. Body condition score 6/9. Mild dental disease. This animal is very nervous and fearful but when approached slowly is manageable.  
K D 86 Shiba inu cross. Female. Chocolate colored. Body condition score 6/9. This animal has what appears to be a congenital defect on the left paw with missing digits. No scar tissue noted consistent with amputation. mild dental disease present. Long nails.

#### Exotic animal room

Cage #1 Two love birds. Plumage normal. Muscling acceptable. Appears healthy. Not Seized.  
Cage #2 One cockatiel. Plumage normal. Muscling acceptable. Appears healthy. Not seized.  
Cage #3 Two parrots. Plumage normal. Muscling acceptable. Appears healthy. Not seized.  
BC 87 Button quail kept in very small cocktail cage. Feather loss and fecal material noted on sternum. Animal taken for insufficient space.  
Rabbit cage #1 Rabbit appears healthy not seized.  
RC 88 Appears healthy, but severely elongated nails and nail trim required.  
T 89 Red eared slider, 8 inches Shell length. Being kept in the 18" x 15" Rubbermaid bin. No heat bulb present no UV bulb present no haul out present. A turtle this size requires an 80 gallon tank. Taken to Dewdney Animal Hospital.

#### Legend

Body Score 3 or less out of 9  
57/89 animals underweight 64%  
18/19 cats were underweight 95%  
26/45 dogs were underweight 58%

46. During Dr. Walton's lengthy testimony, much of which is not reported here as it mirrors what was in his report, he confirmed that he did not find extra hay and that if the Appellant relied solely on the pasture for the farm animals, the total size was insufficient for so many animals. There was a grassy area outside the fenced area but there was no evidence it has been used by animals. Even if it was used, it is unacceptable to put animals in an unfenced area like that.
47. Dr. Walton testified that most of the farm animals (sheep and goats and pig) were underweight. Although the pig was heavier it was lame and its tusks needed trimming. Really thin animals with a BCS under 3 can be assessed visually as their ribs and hip pins stick out. The pig in his view was

moderately lame and the lameness may have resolved itself by the time the farm veterinarian saw the pig.

48. The cause of a low body score could be underlying disease or a decrease in food intake/lack of feed. On physical exam he did not see any obvious disease processes and he did not see sufficient food stores for these animals to have been a normal weight.
49. Dr. Walton testified it is not acceptable practice to keep sheep in kennels and they would not normally go into a confined area, so they would be unable to exhibit their normal behavior. Two of the nine farm animals needed immediate veterinary intervention. These animals are grazing animals and need to feed all day long and need a massive quantity of water to move the food through their systems.
50. Regarding the birds, their muscle mass was diminished and being alone in a crate was unacceptable to him, though it may have been okay in the chicken industry standard.
51. Dr. Walton said that when assessing BCS he rarely gives out a 1 and reserves that for the “most obvious cases’ when there is no muscle whatsoever. When there is no obvious reason for a low BCS (e.g. diarrhea or kidney failure) the cause could be insufficient caloric intake. In this case, given the insufficient quantities of food available and the number of animals with low BCS, he said the most likely cause of low BCS was insufficient caloric intake.
52. Dr. Walton discussed each animal and made specific observations on how some of the co-mingled birds had domination issues leading to one bird being thin or being picked on. Inter-aggression with birds is unacceptable and causes a dominant/submissive structure or resource (food) guarding.
53. Dr. Walton did observe that the dog Cagney was a BCS of 1. He could count its ribs. It had moderate dental tartar, a high heart rate and enlarged lymph node which needed monitoring. The cage was not acceptable by any standard as the Code of Practice says for a dog of this size the cage had to be 1.86 metres squared, or 6 feet by 6 feet. In Cagney’s case, two dogs shared less than ½ metre squared. The dog could not stand up without keeping its head down.
54. Lacey, the dog, had teeth worn from the back which he had observed in dogs chewing on cages to get out.
55. Dr. Walton saw no evidence of systemic disease since the seizure; the consistent trend as a whole was more likely insufficient nutritional intake. In his opinion, they were not getting enough food. The basic fact, he said, was four animals were at his clinic and all gained weight. If there had been disease within the animals held by the Society, they would have contacted him. When he contacted the Society, he had found nothing to explain the low body weight. As far as he is aware there was no underlying medical condition for the animals that would explain the weight loss; the animals in his care have steadily gained weight and thus the most likely explanation for the low weights is lack of nutritional intake. As an example, he said the white pit bull weighed 17.3 kg on seizure; four weeks later, it weighed 19.6 kg and in this particular dog, its dental disease was so severe that could have accounted for a decreased appetite.

56. A cat that escaped the cat room during the seizure went to the open food bag and could not be dissuaded from eating. The litter boxes were quite full and the hair loss of the cats was consistent with external parasites. Many of the cats were underweight.
57. There was evidence of recent but previous flea infestation and standard practice in kennels is to proactively treat for fleas. These cats were treated but treated late as they had marked scabbing.
58. Dr. Walton stated that what stood out for him was the housing and lack of food. Animals need food all the time. There was also several days' worth of defecations in the litterbox which should have been cleaned 3-4 times a day with that number of cats.
59. Regarding the dog cages, Dr. Walton referred to the Code which says the cages must be a minimum of 1 meter high with 1.1 to 1.8 metres of floor space. Dr. Walton stated that not one cage was greater than a metre. The cages used were designed for transport not for housing. It was apparent to him the dogs were kept in the cages long-term unless they all ran around together and there was no evidence of that. The food and water dishes were in the cages and the dogs were in the cages when he showed up with some cages housing two dogs. This is not acceptable as it reduces available space.
60. Dr. Walton testified that he classifies moderate dental disease as causing some pain and discomfort and needing attention in the next 6 months. Severe means exposed roots, loose teeth and erosion with dental care required immediately in the next two to three weeks. These dogs needed to see a veterinarian to have proper dental assessments, he said. One dog had such severe dental disease that euthanization was discussed (Dr. Walton testified he instead extracted 31 of the dog's teeth pro bono and there was so much rot the smell was noticeable and the holes after extraction had to be sewn up).
61. Dr. Walton stated he dictates his reports which sometimes creates some inappropriate or incorrect words, as with Dog 63 where he said "Due" and the program typed "Jew". He confirmed that the video entered into evidence accurately depicted the animals and conditions at the seizure. Dr. Walton testified he did not medically assess the rabbit RC88, as it appeared healthy and this was just a grooming issue. He did not advise the constable that the nails were a medical concern.
62. Under cross-examination, Dr. Walton stated the slide turtle was taken as being in distress not due to a ban under the Wildlife Act. Dr. Walton explained that he informed the Society what he found on a physical exam and it was up to the Society to discuss the findings with the Appellant. Dr. Walton confirmed that he did not think his handling of the black hen stressed the bird; his view was that its breathing was not typical and needed assessing down the road.
63. Dr. Walton explained that the Society decided on which animals are seized; he only makes a recommendation.
64. The quail was taken for feather loss on its belly and inadequate housing. He said the housing was "severely nowhere near big enough."
65. Dr. Walton was taken to several spots in the video and asked questions that he said he couldn't answer as no answer was possible by looking at the video. Dr. Walton confirmed again that his role was to do a physical exam not to discuss his finding with the Appellant. He said he was an

independent veterinarian and not biased toward the Society. He was hired to do an independent investigation and do assessments and report his findings.

66. In response to my questions, Dr. Walton explained that critical distress is legally defined as an animal in need of immediate veterinary care or it will get progressively worse. For euthanization, a veterinarian can euthanize an animal that is in significant pain and discomfort and where, in the short term, the situation cannot be immediately relieved either because it is not feasible or the animal is dying in front of you or the cost is prohibitive.
67. Dr. Walton stated that one cat was not seized as it had been free to roam and was not in any medical distress and was in good body condition. He noted as well that some birds were left as they had adequate body condition and adequate cages.
68. Regarding the dental condition of many of the dogs and cats, his view was that the dental disease apparent progressed slowly. It can be invisible to the eye at first as it occurs under the gum line but it becomes visible as the gums recede. It becomes obvious with the smell that accompanies infection, which can occur within years or within a few months. He noted as well that there is a connection between poor dental health and heart disease. Several of the seized animals had heart murmurs. Dr. Walton stated that there was no underlying disease to explain the poor body weight amongst the herd. In his view, it was unacceptable to do nothing and a veterinarian should have been called to assess these animals. The dental disease caused inflammation and pain, and was painful and uncomfortable.
69. Dr. Walton did not agree completely with some terminology used in the grooming records.
70. Regarding exercise, Dr. Walton stated that dogs need a minimum of 40 minutes a day in an outside enclosure as per the Code. To care for 45 dogs in his opinion would take more than 24-hours in a day, or perhaps 14-16 hours per day if they were dealt with as a group. To care for 18 cats (litter, food, attention) would consume 1-2 hours a day. For the farm animals inside the garage 1-2 hours per day would be required to ensure bedding feeding and cleaning. Another 1 to 1.5 hours per day would be required to care for the birds.
71. In Dr. Walton's clinic, he has 8 full time staff to medicate, treat, clean, walk and feed 8 – 12 dogs a day.
72. Asked to explain basic animal husbandry, Dr. Walton explained that a person caring for an animal must be able to determine how much each animal needs to eat per day and adjust that if they gain or lose weight. Such a person needs to be able to identify basic medical concerns and needs to attend to grooming, ear cleanings, nail trims, coat assessment, teeth checks, weight monitoring, behavior observation, and general welfare for any changes. For farm animals, a basic understanding of pasture management or supplements is needed as well as an understanding of housing needs and possible problems with parasites and common ailments and when to bring a farm animal to a veterinarian.
73. Regarding a note from the Appellant's veterinarian about an IV, Dr. Walton said a patient cannot ask for an IV and ask to skip the exam. The animal would need an exam. For the owner to ask for no exam is usually an indicator that the owner does not want to treat the animal.

74. Upon further questioning from the Society, Dr. Walton confirmed that he “hedged his bet” regarding the underweight status of the animals as he had not come across any explanation for the poor BCS on this many animals to account for the level of emaciation he saw. The fact that some animals were better than others appeared to be a timing issue, and they would deteriorate. The evidence available to him, on balance, supported his opinion that the animals did not receive sufficient caloric intake.
75. Dr. Walton testified it would take even longer to care for underweight animals, as each would need to be monitored on a daily basis.

*SPC Auzins*

76. Special Provincial Constable (SPC) Auzins testified that she was a constable appointed under the Police Act and that she was at the seizure September 19, 2016. She confirmed the past history, as it appeared in the materials submitted, was true and accurate to the best of her knowledge.
77. On August 20, 2016, a complaint call came in. She attended the property for the first time on August 23, 2016 and met the Appellant in the driveway where she was at her van. The Appellant agreed to meet SPC Auzins the next day at 9:30 am.
78. On August 24, 2016 SPC Auzins attended the Appellant’s property and noted the condition of many animals. The Appellant advised SPC Auzins that she could address the problems identified. Two Orders were issued including to have Cagney see a veterinarian within four days and to provide sufficient food, water, and exercise to all the animals. The Appellant advised SPC Auzins that she was aware Cagney had been sick as it ingested a toy and had now defecated the toy out so her weight was now increasing. She had not sought veterinary care for the toy ingestion. The Appellant told SPC Auzins that the goats were separated by gender and rotated through the pasture. The Appellant was given the option of surrender but declined.
79. Another telephone complaint came in on August 24, 2016 regarding living conditions and low body weight of the animals.
80. SPC Auzins called the Appellant on August 29, 2016. The Appellant confirmed that Cagney had seen a veterinarian. SPC Auzins advised the Appellant that Cagney and the goats needed to be rechecked due to low body weight. SPC Auzins called the veterinarian who informed her that Cagney had been in and was given a de-worming as the dog was underweight and the de-wormer should rectify the Society’s concerns. The Appellant advised that she was not comfortable with any more rechecks from the Society, but that she would get Cagney rechecked by the veterinarian.
81. SPC Auzins had concerns about the other animals that had not been covered by the Orders. In particular, she was concerned that the Appellant had told her that other than some dogs that she identified, there were no other dogs. However, SPC Auzins learned on September 12 that a paralyzed dog lived on the property. She also noticed when she drove by, she could see into the property and that a goat appeared to be underweight and have a sparse coat. She only ever saw the same 3 goats, 3 sheep and 1 pot-bellied pig and had not noticed farm animals being rotated from the ones she observed in the garage. SPC Auzins said she drove by the property five times and never saw any dogs or poultry outside. She therefore applied for a warrant. SPC Auzins confirmed that the video taken on the execution of the warrant accurately portrayed what happened.

82. SPC Auzins stated that no animals were seen at the front of the house, just on the right side of the property and towards the back of property.

83. SPC Auzins went through the Society's photographs and noted the following:

Page 2 – goat could not stand up due to low ceiling, sheep cannot lift head due to low ceiling.

Page 3 – no perch for chicken, no laying boxes, underweight, mites.

Page 4 – head of dog (2 dogs in cage) would strike ceiling if dog stood fully upright, water was spilled, one dog looked fearful.

Page 5 - Big duck missing eye, 2 doves underweight, adequate size cage.

Page 6 – 2 cats no place to hide, shared wall with dogs.

Page 7 – good BCS cats but no area to hide or withdraw from each other.

Page 9 – many animals, one dog with horrible skin.

Generally, said SPC Auzins, she was concerned that dogs lived in crates all the time and this may not be well-tolerated by some dogs.

Page 25 – birds prefer to be up high. Quail cannot perch as cage too small but other birds look good size. One cat was left with Appellant as did not see any reason to seize.

Page 26 – rabbit seized for veterinary care.

Page 26 – one cat seized as needed veterinary care.

Page 27 – dogs even if healthy were in unacceptable housing and their behavior included spinning and barking and pacing indicating they had been in crates too long. SPC Auzins never saw these dogs outside.

Page 33 – all but one cat seized for veterinary reasons, being underweight, needing dental issues fixed.

Page 36 – one cat escaped and was ravenous when it found food, all cats underweight and had hair loss.

Page 68 – two dogs found dead in bar fridge that was not turned on, one wrapped in a plastic bag, one stuck to a plastic bag.

Page 69 – unknown deceased decomposed animal.

Page 71 – deceased rabbit in freezer.

Page 71 – long dog nails, overgrown.

Page 56 – dental disease.

Page 59 – eye and dental issues.

Page 42 – yard was combined to form L shape, did not see accessible food, no grass growing and no access to grazable grass. She was concerned as the animals were underweight and the goats had stained knees and tummies and beards.

84. On cross-examination, SPC Auzins confirmed that both orders written in August 2016 were given to the Appellant beside her van. She recalls being told the Appellant's operation was a rescue. A crate said "1atattime Rescue".

85. I pause to note here that during SPC Auzins' cross-examination, the Appellant re-visited her opposition of the warrant the Society had obtained from a justice of the peace to enter the property, which was a matter I had already addressed in a pre-hearing decision. I therefore advised the Appellant that I would not be re-visiting that decision and to turn her attention to matters not concerning the validity of the warrant.

86. SPC Auzins confirmed that some photos showed goats in the front yard even though she testified she had not seen any herself when driving by. She commented that the goats were not fenced into the front yard. She said she did not know how the dogs could get into some of the pens in a photo, but said they would only be able to crawl in due to its size.
87. SPC Auzins testified that the rabbit seized was seized for overgrown nails as she had determined that if any animal need further vet care it would be seized. She said any animal with long nails is uncomfortable and noted that orders had been issued in the past and not complied with promptly to relieve distress. SPC Auzins agreed this was the first time she saw the rabbit. SPC Auzins testified that there were many animals so it was impossible to know the level of distress the nails caused the animal so it was simply taken; she removed the rabbit for that reason.
88. SPC Auzins testified that the warrant was executed and the Society was on scene between 10:33 am and 8:45 pm and that toward the end of that time, the Appellant was with media on the road. SPC Auzins agreed the Appellant was forced away from the animals for the duration of the warrant and that the Appellant was very upset but did provide the names of some dogs with no information regarding their conditions.
89. SPC Auzins was taken through the video taken during the seizure (a compilation video as the video was longer than one hour) and testified that the litter box was dirty but some litter boxes appeared to be less used than the overflowing one.
90. SPC Auzins agreed that in an animal hospital when an animal dies it is frozen awaiting cremation but that it was unusual to see this in a home. [I note for clarity that there were photographs taken of dead animals at the Appellant's property. Some photos were of dead animals in a bar fridge that was not functioning (one animal which had decayed so badly it was not known what type of animal it was), and another animal was found in a freezer.]
91. In response to my questions, SPC Auzins stated that to her knowledge the nails of the rabbit did not pierce its flesh and the nails could be trimmed but not within seconds, and that this rabbit's nails were overgrown and could cause its digits to displace and cause arthritis as it ages. She stated that there were so many overgrown nails at this property that she felt overwhelmed. She knows nails can cause arthritis from other interactions with veterinarians. She confirmed that if any animal needed vet care it would be removed, as this would be additional to living condition concerns and previous history. Between 2008 and 2012 in Burnaby, 30 orders were issued and animals removed.
92. SPC Auzins' concerns included no natural light for some of the animals and poor ventilation with inadequate airflow. She had determined at the outset that all animals in the garage would be seized due to inadequate living conditions as her belief was that these animals spent the majority of their time in crates inside the garage. In the cat room, she determined that if any cats were found to need veterinary care, they would be seized and if not, they would be left, as one was (due to being in adequate condition and having food and water).
93. SPC Auzins seized a cat kept in the bathroom as it was underweight with a BCS of 3/9 and had no natural light. SPC Auzins testified of her belief that the cat was in distress as it was deprived of light; she confirmed there was a light in working order in the bathroom.

94. In response to further questions from the Society, SPC Auzins confirmed that a number of staff were required to care for all these seized animals, that the Society called in auxiliary staff and that animals went to different shelters to relieve the strain. More than five people were needed to care for the seized animals and between all shelters, 20 people cared for the animals.
95. SPC Auzins was dismissed as a witness and then recalled when the Society made the decision not to call SPC Drever.
96. In response to the Appellant's questions, there was commentary on the number of Society vehicles at the property and the timing of their arrival. SPC Auzins confirmed they were on standby to arrive within half an hour of being called.

## **X. The Appellant's Evidence**

*M.N.*

97. Ms. M.N. testified that she owned Peanut since 8 weeks old, getting him from the breeder. He ate well, had a good appetite, and had some challenges. Ms. M.N. testified she regularly left Peanut in the Appellant's care when she travelled for work and found that Peanut was as happy when she picked him up as when she left him. Peanut was able to sit up from a laying down position and change sides, and did wear a diaper. He did not live in distress. She had never been inside the Appellant's home.
98. On cross-examination, Ms. M.N. said her expectation was that if Peanut got sicker, the Appellant would take him to the veterinarian. Peanut has had sores in the past and she treated them with a steroid prescription ointment she got from the veterinarian. It was trial and error whether some medications would work due to Peanut's lack of muscle. The Appellant would bring Peanut for occasional visits with her while the Appellant was looking after him and Peanut often travelled with Andy, the geriatric dog. On visits, Peanut seemed well but dusty.

*C.W.*

99. Ms. C.W. said she had been friends with the Appellant for 10 years. She started visiting the Appellant in her home two years ago and thought she had about 85 animals then but doesn't know and didn't count them. Ms. C.W. testified she would come for a visit when the Appellant felt she needed a visit and Ms. C.W. would help file papers in the quiet area of the house. Papers were stacked on the floor, usually a very small stack, about 20 pieces, mostly receipts but she did not know. She only did this about twice a month. Mostly Ms. C.W. testified she would sit in the living room and talk or play on the tablet and the dogs were in the living room but no cats and she had nothing to do with feeding them and did not have any interaction with the dogs. She noted there was no smell and no dirt.
100. Ms. C.W. testified that she came by the Appellant's home as often as necessary, usually once a week. The dogs were out and about all day long and they would be kenneled if she and the Appellant went out though they did not go out for very long. Ms. C.W. testified that the Appellant spends a lot of time with the dogs in a quiet area of the house which is where the dog Andy stays. Ms. C.W. was in the car with the dog Cagney once when the Society arrived and when the Society left, she and the Appellant took Cagney for a walk at a local park.

101. Under cross examination, Ms. C.W. testified that she had not seen an increase in animals during the past two years. She noticed all animals were well-fed but did not look closely enough to see if they were groomed, or the situation with their nails or teeth. She never saw a veterinarian or a groomer come to the house. Ms. C.W. would stay about six hours per visit give or take a few hours. It was a social visit or she would help with paper work if needed. The quiet area she referred to was the front room inside the door as no animals were kept here. She did see the spinal deformed dog and never saw it walk. It appeared happy and content and always wore a diaper. The dogs were running around and she disagrees the dogs were in crates. She never once saw a dog in a crate. Dogs were put in their kennels when they went out or while the dogs were eating. A sliding door kept the dogs out of the quiet room. Dogs were kept in the living room in a quiet area and older dogs were kept in a quiet area.

*B. A.*

102. Ms. B.A. testified that her first contact with the Appellant was in 2009 when the Appellant was involved with rescuing a boxer from the USA. She states that she fell in love with the Appellant's love of her animals. She regards the Appellant as good person.
103. Ms. B.A. testified that she adopted the boxer, that the Appellant kept in constant touch and that the Appellant even paid for some of the veterinary care and mourned with her when the boxer passed away. The Appellant babysat the dog once when Ms. B.A. went away; the dog was well cared for and happy to be at the Appellant's home.
104. Under cross-examination, Ms. B.A. testified the last time she went to the Appellant's home was in 2010 and she had never been inside the home.

*C. H.*

105. Ms. C.H. testified that she has known the Appellant for four years, having met her at a Fraser Valley auction. She has many animals herself. She has seen the Appellant's goats often and confirms they were acquired from the auction and were babies at the auction which would have died as they were not being looked after. She has seen where the goats were housed and it was always clean; the goats were not lying in their own urine or filth. She has seen food, hay, grain and water and lawn or grass and the goats always have food to eat.
106. She testified that inside the garage was a large area with various animals in various situations, but that nothing concerned her; there was no abuse. She saw animals come in from outside to be in the garage as they wanted to be there. It was her experience that the animals were given good care, great care, and she never had any concerns. Piles of hay were often seen and the shavings in the photographs looked the same as the ones she had seen. The Appellant consulted with her regarding clipping the animals and worming them and about the general health of the animals. The Appellant "picked her brain."
107. Under cross-examination, Ms. C.H. acknowledged that she is not a veterinarian. She said the Appellant did not get a veterinarian to inspect her goats when she purchased them, and she did not get an inspection of her own either. She first attended the Appellant's property in 2013 and was present there within a few weeks prior to the seizure. She would not go there as much in the winter and would stop and talk one or two times a month, but did not physically go inside the home.

108. Ms. C.H. said that sometimes the animals were in the garage and would get out to run in the yard. She had seen two dogs in a cage and seen them loose in the yard as well but they wanted to be in a cage and they felt safe once they got used to it; they'd stay in their cages and then go out in the yard. She said the birds and rabbits were always in cages and never loose. She stated that the garage smelled like a barn should smell, that the dogs barked when she came in and that there were about a dozen cages with each bird having its own. She thought the temperature was fine and the two dogs in the cage had water not food, and a blanket.
109. Her testimony was in my view unclear about whether she saw doors or windows open or heaters or lights. She stated that she has training in animal behavior and agreed that the animals could not get out into the yard on their own. She assumed they slept inside at night but was only ever there in the day when she saw the two dogs in the same area but against a different wall than the goats.
110. In response to my questions, Ms. C.H. stated that she would stop by the Appellant's home and visit outside or in the garage, and that it was usually clean when she looked at the goats, a couple of times a month "more or less." She showed the Appellant how to trim the goat's feet and apply lice powder but did not help the Appellant clean or pick hay or help her feed the animals. It was just a quick visit to talk. When she visited, the Appellant would be the only one there as her partner works fulltime. To her knowledge no one else helps with the animals. The dogs would be in cages or out in the yard unless the weather was bad, when they would be in cages. She only ever saw three dogs in the yard, the two that shared a cage and one more; she never saw cats outside. She never saw rabbits or birds outside, but did see the goats separated by gender, the pig and the sheep. Maybe five or six goats. Ms. C.H. testified that she herself has 9 horses, 6 cows, 4 pigs 18 sheep, 30 goats, 2 dogs, and 7 cats, and that her two sons and mother help her at times to care for the animals. It takes her about four hours a day to care for the animals not including shopping, and the dogs don't take long.

*Sandra Simans*

111. In her submissions package, the Appellant included some animal related credentials, various photographs of past animals or adopters, her rescue adoption contract, various veterinary records from 2013, a letter from Veterinary Hospital "A" confirming she ordered 10 boxes of flea prevention and 20 boxes of de-wormer on the day of seizure, a photocopy of cash to pay for that order (but no invoice showing the amount), photographs of animal cleaning and grooming products and flea sprays, photographs of green myrtle eye wash, oral care peppermint gel and nutrivet ear cleaner, photographs of natural ear drops plus a 100 ml bottle of a worm prescription from a Surrey Pharmasave with the year of expiry not visible, photographs of a few bags of dog food that appeared collapsed, bottles of a joint formula, probiotics, renal supplements, LiverTone and KidneyTone, and a handful of free samples. She also included a list of her dogs and their current conditions, photographs of cat food and treats, a list of her cats and current conditions, an invoice from an animal hospital with its name obliterated for three cans of food and an IV and fluids totaling \$88.20 dated 2015, a Veterinary Hospital "A" receipt dated November 11, 2015 for 2 cans and a bag of food and some renal pills and syringes totaling \$127.78, an invoice from the Veterinary Hospital "B" for food and flea control dated 08-03-2016 totaling \$53.87, flea treatment invoice from Veterinary Clinic "C" in September 28, 2016 totaling \$18.06, a January 2015 invoice from Veterinary Clinic "C" for gas relief totaling \$8.44, 24 additional invoices from Veterinary Clinic "C" in 2015 (with roughly half at less than \$20 each, half around \$20 each with one just under \$50, most for food or worm/flea or nutritional products and several for lactated ringers).

There were also several receipts of similar value dated 2014. There were photos of goats and sheep in a yard and pens with bedding. There were photos of rooms after the seizure with empty pens and the rooms appearing clean. There was a photo of Peanut with the photo showing only Peanut's head and shoulders and right hind leg from the knee to the toes, with his body not being in the photo. There were some invoices from 2009 and 2011 for veterinary care, some totaling several thousand dollars for a dog named Zippy and some 2007 and 2008 eye specialist veterinarian reports including for the white pit bull which the Appellant said had been with her since its birth. There were 2015 and 2016 vet records for a dog named Andy that mention possible allergies or infection (with a veterinary recommendation that was declined by the client) including those at Exhibit 2 Tab 36, photographs of a few dogs in sweaters in a park on a walk, photographs of cats in a cat room with a climbing post and perch, and numerous photos of the Society staff in white suits and the camera crew during the seizure.

112. The Appellant also provided lengthy testimony.
113. The Appellant testified about her credentials, animal welfare certificate and knowledge of veterinary care, nutrition and first aid. She testified that she is more aware than the average person about animal care, and she was licensed as a horse trainer. She is on the Board and is the founder of "1atatime Rescue", a charitable Society since 2006. She has performed animal rescue inside and outside of Canada. She has adopted out some animals and her photographs show that they look to be in pretty good health.
114. The Appellant agreed that Cagney needed to gain weight but she swallowed a rope toy. The Appellant stated that she complied with the Society's order but had not sought veterinary care when the toy was swallowed as rescues try other things first in order to be economically feasible. She on her own accord picked up de-wormer on August 29, 2016 without the Society's urging so that the dog would put on weight.
115. The Appellant testified that during the seizure, she offered to walk around the house with the Society to give each animals' history. She stated that she was going to have blood work done on one dog so it could have its dental work but she was waiting for it to put on weight. She said the Society told her that they have a history with the Appellant and are taking all the animals, and she felt sick when she heard that.
116. She said her photo of skin and grooming products were what she was doing for her animals' skin. She stated that their skin conditions rise up and die down some due to allergies and some to a poor life and they never clear up 100%, but she was directed by a veterinarian to use these products. She said she was directed to buy them based on a veterinary assessment and everything was being done to address what she saw on the dogs.
117. She sprayed and continued to spray a vet product for fleas.
118. Referring to the eye, ear and teeth products in the photograph, the Appellant said she gave the animals the best oral care she could.
119. She said she had spoken to a pharmacist regarding a veterinary tapeworm product.

120. In an effort to help put weight on the dogs she spoke to a local pet store person and determined Summit food and Canadian Naturals to be more nutritious. Her animals are very well-loved. In an attempt to boost their food and for the best chance at quality living, she gave the dogs some joint formula.
121. She had a good group of senior dogs. She had Louie for 11 years, and had most of the rest for 7 – 11 years. She said her rescue was almost in “sanctuary mode” and she thinks her dogs had deserved better in their short lives but they have been with her now for several years. The dogs just stuck around and they are all getting older and she does not canvas to get any more animals and wants to let the dogs live out their lives.
122. She did everything for “Nelly” but unfortunately Nelly passed away and she put it in the freezer to be cremated.
123. She had had the same concern as SPC Auzins about the lack of a front fence between the house and the road, but the animals had made no movement toward that area. The goats were always in the front and back. Other goats were around the corner so the SPC did not see them.
124. She stated that she likes her place clean and does not like filth and mess and dirt. Outside there was always a pool of fresh water. The animals were in cages when they slept at night or had quiet time, and would run and play in the living room or bedroom. Some would access the patio. There was a single clean row of kennels and a box of toys and shampoo for urine mistakes. The backyard is fully fenced in an L shape with temporary fencing available to separate it into two sections.
125. One dog had a flap in its throat that made it cough when excited and she said the vet invoice for \$7,000 in 2011 to address that was proof she was not unwilling to spend money on her animals. She testified that she was not willing to let an animal suffer and the invoice showed she got veterinary treatment.
126. She monitored the dog Ronnie’s eye pressure by looking at it, and if it looked “bulgy” she got Voltarin. As the eye shrank more, Ronnie didn’t need any more medicine.
127. The Appellant had the dog Honey since it was 6 weeks old and she regularly visited the veterinarian for its eye and kept it clean.
128. Ollie the dog was blind and needed dental work and was on Clavamox prior to the dental work, received from Veterinary Hospital “A”. The Appellant has had hundreds of animals, and to facilitate the financial realities of operating a rescue, she uses drugs returned to the veterinarian by other people and then passed on to the rescue. When asked if the veterinarian examined the dog, the Appellant said no she just spoke to him. She knew the dog needed a dental in June but the veterinarian went on holidays and she wanted to wait for the dog to gain weight.
129. The Appellant spoke about one of her rescue animals that had been shot pre-rescue. It was a small entrance and exit wound on the dog and the bullet went in and out. If she let it be sedated to close the wound, it would be risky for the dog so she let it heal on its own and watched it heal. She said she did not take the dog back to the vet but instead just told the vet what it looked like and she believed the dog had healed.

130. Andy the dog slept by the fireplace and could come and go.
131. Regarding a veterinary record on page 185 Exhibit 2, the Appellant testified that she did not attend the veterinarian for a recheck as recommended as she went to another vet and did not bring those records as that visit was uneventful. She had pills to help Andy's breathing and still had some left. Although the bottle said discard after March 2016, she was told they were still good.
132. The Appellant said she took Captain and Ronan to the park 2-3 times a week off leash but the little dogs were not keen to go.
133. The Appellant disputed that the video showed any blood on the stump of the amputee dog and yet the veterinary report said there was blood.
134. Under cross examination, the Appellant said she did not take Girlie back to the veterinarian but instead communicated verbally with the veterinarian. She thought the veterinarian said that if Girlie was not doing well to bring her back in. Ollie has been to the veterinarian for other things but she did not get everyone's veterinary records. She only got what she needed to disprove the video. She wanted to show she did not abuse the animals, that they had defects. Regarding the dental, she was dealing with it, and arranging this before the seizure and did not have the records as she did not have staff to pile through the binder and she did the best she could to provide information.
135. She disputes that the white pittie on page 269 Exhibit 7 had severe dental, saying it was not that badly discoloured and of course she looked in his mouth and it was not too painful to touch and he would not have eaten his crunchies if it was too painful.
136. Throughout the hearing, the Appellant testified that she thought Dr. Walton embellished things. She thinks the white pittie had moderate dental disease and she was more than willing to do his teeth. She stated that her own oral cleaning products were "easily as good" as the veterinarian's cleaning products - the dog's teeth were "not that black".
137. When asked why she had not had the dentals done including on Buddy, she said she was set up to have them done but the veterinarian was gone for August and the dog was on antibiotics in September and she was using products as directed but does not have these records. The dog's weight was good by early September but she was still "making sure" by keeping him on antibiotics. If their dental pain was that severe they wouldn't eat. She watches them eat.
138. The Appellant said she had three dead animals in the freezer, the same as in a veterinary clinic. One dog died of kidney failure, had received the best treatment it possibly could and died as peacefully as it possibly could at home. "Nellie" was in the freezer and had been on a "whack of things" from Veterinary Hospital "A", but she had no records and does not have a crystal ball and was not sure she did see the veterinarian, but the dog died and that death was not from being euthanized. For her it was a moral issue. She tried what she could and stated that people don't always know when a dog is at the end of its life.
139. When asked why not leave the dog at the veterinary hospital the Appellant said the dog just needed sub-cutaneous fluids, that she was "quite capable" of administering sub-cutaneous fluids, and that the dog died in less than a year. The beagle passed away in its sleep. She cannot recall how the cat died. The dead dog in the bar fridge was a small dog that passed away of old age causes. It had

possibly been there a few years. Her intention was cremation and that had always been in her heart and she did not want to discard the bodies as if their lives meant nothing.

140. The Appellant said some of the older dogs carried a bit more weight after being supplemented with quality food and supplements, and that she had taken action deworming and defleaing.
141. The Appellant stated that she has never heard of asking for a veterinarian to do a home visit.
142. The Appellant testified that she heard Dr. Walton testify that the housing was unacceptable, but she stated that he was assuming they were caged all the time. They were not; they were in the cages to eat and then they carried on for the day. They slept in their kennels and went outside to run, pee, drink, poop, stretch and then come in to eat. She'd put clean blankets down and go on with the day. The farm animals were outside for most of the day and some dogs interacted with them. If the weather was poor, the dogs romped and played on the covered deck just like at doggy daycare.
143. Regarding the weight of the sheep, she did notice it was low but not overly so she just fed them a good diet and added goat and sheep text.
144. The Appellant consulted Ms. C.H. about the farm animals and stated that everything was being done for them. She did not consult a veterinarian; she did what was directed by another farmer.
145. She cleaned the litter boxes every day but one was used more often than the others so was messy.
146. The Appellant said she found the hours stated by the Society for caring for the animals to be grossly inflated. Ms. C.H. has 30 sheep and spends less than four hours caring for them. At her own home, the Appellant said everything is easily accessible and she spends the equivalent of a work day caring for her animals. The total time is 7-8 hours a day and is her work day, which is "not a big deal." There was no need for help as everything went smoothly.
147. In response to my questions, the Appellant said she had a few of the dogs for less than a year; Captain just over a year and the rest more than two years. The vast majority of cats she had had for more than a year; the ram less than a year; the sheep over a year; the goats over a year; the pig over a year. She acquired no animals in the past six months.
148. The Appellant testified that the animals were out of their cages for 10-11 hours a day.
149. The Appellant testified that she is the animals' sole caretaker but "Doug" (also referred to elsewhere as Mr. H), will help evenings and weekends if she asks but she does not find she needs help with anything as her routine goes smoothly.
150. The Appellant had said she monitors the dogs' weights, so I asked her how she does that. She said other than when they are at the veterinarian, she does not weigh them. To monitor their weight, she looks at the animal, looks at whether they have a hollow face. She touches their backbone to see if they feel "ribby."
151. I asked how she monitors the dogs' individual weights and she said it comes naturally. She looks "very closely" each day. I asked if she weighs the animals on a scale or keeps a log book. She does

not. She monitors weight visually and by touch and she remembers who stands out. She does not make a list but she “does not *not* notice.”

152. In the two weeks before seizure, the Appellant said she spent about \$600 in dog food but did not include any receipts. She confirmed the pet store told her what the best food was both “price wise” and highest quality and that is what she now used.
153. The Appellant stated that she thinks the dog Anna Louise definitely put on weight and that Honey and Maxwell were skinny. When I asked her for more exact information on weight gain, the Appellant said three or four dogs looked thinner in the ribs but Nancy had put on some weight; Louie had put on one pound and she guessed he was now 13 pounds; Andy put on 2-3 pounds or more; some dogs were looking like they were not carrying as much weight as she thought. Some had tapeworms in their stool from fleas and she thought she was on track for that but she cannot continually de-worm – “no matter what, you still find tapeworms”. Even one week before the seizure she found tapeworms and wondered how this was possible when she’s done everything humanly possible. She noted there was a room at the end of the hall which was messy and flea ridden and that has now been cleaned and sprayed. The Appellant’s view was that there was no reason now for weight loss now, and it had to be due to aging.
154. When asked to explain what looked like blood inside “Sammy’s” cage on the video at 53:22, the Appellant stated that she could not explain that.
155. I asked the Appellant about her plan should the animals be returned. She said she had already cleaned out the flea ridden room, and that she would get a scale and weigh each dog, keep a log book, continue feeding them high-quality food and supplements and keep fecal monitoring records. She stated that cleanliness really isn’t an issue as she works hard to keep things clean. The Appellant stated that she would consider placing some of the younger dogs and could develop a closer relationship with her veterinarian and maybe be more willing to seek veterinary help. She would get treatment for anyone who needed it or dentals; and would continue to practice good dental health and eye health.
156. She said she has the resources to get dentals done.
157. With the cats, the Appellant said her plan is that she really believes they are getting a good diet right now and they are more sensitive to fleas and now that they were treated for fleas they will thrive. She will get them a place to hide and furniture to enhance their quality of living.
158. Regarding her plan for the farm animals, she has spoken to people and will get the animals fixed so not to add to the population. She stated that it is not hard to make a pen and so they won’t be seen in kennels even though they don’t mind being in kennels. In terms of increasing the sheep and goat text, she stated that they don’t eat it now so it is wasteful, but she would de-worm them.
159. With the birds, she stated that she could make a bigger enclosure for the chicken and could watch the ducks more closely. The pigeons don’t look like they are in distress but she could give them more perches.
160. Her goal is to find a nice sanctuary and she is always looking and she wants to be in her animals’ lives and not abandon them.

161. The Society questioned the Appellant regarding giving up some animals. She responded that she operates in sanctuary mode, that many of the animals are senior and that some have been with her for 8-10 years and are familiar. She is committed to seeing it through and thinks the animals would be better with her to see it through. She thinks the Society will euthanize some of the animals but that they know her home and that would be tragic at this point in their lives. Louie is always there, not just an animal but family. She cares deeply for her animals. The house is massive so that is why no one saw the animals anywhere else in the house.
162. The Appellant reiterated that she did not need to take the animals to see the vet for over the counter flea medicine or tapeworm medicine.
163. She testified that she kept high-quality dog food, some of which was in a closet in the laundry room, some of which was in a closet in the back bedroom, and some of which was in the garage. She did not call Mr. H as a witness, he is working and he would not say anything different than the fact he would help if asked.
164. The Appellant testified that she did not have the opportunity at the seizure to say all she had done for her animals and now that we were at the hearing, it was better to work harmoniously. The Society was spending thousands on a lawyer not on animals. The Appellant said she would have happily followed orders, that the Society could have come in and said ‘do this’ but instead it made the decision to come in and do it for themselves. She was willing to discuss and listen. They may agree to disagree but she believes she implemented the things that needed to be done. It was unfortunate that the seizure “went ugly.”
165. The Appellant said she could afford dental care and had regularly seen a veterinarian but not recently due to financial constraints; she stated that you won’t find a rescue who does not have financial constraints. She stated sometimes in rescue “you triage”, some things depend on who’s more important. Of course, you spend an awful lot of money on animals, “but you split hairs on some where it’s needed.”
166. The Appellant said if she had more money to spend on veterinary care, she would consider it on a dog-to-dog basis as going to the veterinarian won’t make animals not have what is wrong with them.
167. The Appellant said she has been open and honest and is comfortable with her answers and is feeling open.

## **XI. Submissions**

168. At the end of the hearing, the parties were given a submission schedule for written closing arguments and arguments on costs.

### *The Appellant’s Position*

169. The Appellant submits that she was willing to give the Society full disclosure at the time of the seizure and willing to promptly take any action deemed necessary by the Society to further enhance the lives of the animals. At the same time, the Appellant submitted that the animals were not in a state of distress at the time of the seizure, and in her view the Society’s plan all along was to seize

all the animals upon their arrival at the execution of the warrant, without any consideration to the Appellant's history of compliance. She submitted that this was supported when the Panel asked about the seizure and the Society responded that the animals were seized as there was a history.

170. The Appellant submitted that Dr. Walton's evidence has the appearance of bias, which bias is evident right from the outset of this matter when the warrant was executed on September 19, 2016. In support, the Appellant submits that contrary to SPC Auzins statement that Dr. Walton decides which animals are seized, Dr. Walton "threw it back" on the Society saying the Society makes the decision. The Facebook page of Dr. Walton also supports the allegation of bias.
171. The Appellant's position is that, in terms of food and supplements, she showed during this hearing that there was food available, supplements, shampoos, eye drops, ear cleansers, ear drops, several products for oral hygiene, and made it clear that it is her intention to continue with these things and consult the vet for direction if needed. The Appellant submits that Dr. O'Sullivan gave some management suggestions regarding the farm animals in his testimony which he felt would help increase the body condition of the goats and sheep, which suggestions were noted by the Appellant moving forward.

#### *The Society's Position*

172. The Society's position firstly is that the PCAA definition of "distress" includes being deprived of adequate food, water, shelter, space, exercise, care or veterinary treatment, kept in conditions that are unsanitary, injured, sick, in pain or suffering, or neglected.
173. The Society's position is that the Appellant failed to properly care for the animals, depriving them of adequate food, leaving many severely underweight as a result. Veterinary care was provided in a haphazard, piecemeal manner and many animals that were injured, sick or in pain were left untreated. Additionally, the Appellant failed to provide appropriate shelter for many of the Animals and the level of dental disease, as well as the overall condition of many of the Animals' skin and fur, was indicative of ongoing and persistent neglect.
174. The Society also applies this definition in deciding whether to return animals to the custody of their owners. If the Society has reasonable grounds to believe the animal will continue in that condition upon return to the owner, or if the animal would otherwise suffer on return to the owner, then the Society will not return such animal. This ensures protection of animals' best interests and it is consistent with judicial authorities and prior decisions of this Tribunal. When considering a return of the animals, the Society considers whether or not, in the opinion of the authorized agent, the person responsible for the animal will promptly take steps that will relieve its distress.
175. The Society notes that the Appellant advised that she had not recently taken any new animals into her care, so cannot argue that the Animals were recently rescued and provision of adequate care would have been forthcoming.
176. The Society submits that on this Appeal, the Appellant must demonstrate the Society's decision ought to be changed to justify a new remedy. The Society says the Appellant failed to demonstrate that based on Ms. Moriarty's decision, or any new circumstances, the Animals ought to be returned to her. For these reasons, the Society submits that this Appeal should be dismissed, and that the Society should be permitted to dispose of the Animals pursuant to s. 20.6(b) of the Act.

## **XII. Analysis and Decision**

177. The *PCAA* sets out the following definition of “distress” in section 1(2):

- 1 (2) For the purposes of this Act, an animal is in distress if it is
  - (a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
    - (a.1) kept in conditions that are unsanitary,
    - (a.2) not protected from excessive heat or cold,
  - (b) injured, sick, in pain or suffering, or
  - (c) abused or neglected.

### *Seizure of the animals*

178. Section 1(2) must be read with s. 11 of the *PCAA*, which states:

11 If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal

- (a) does not promptly take steps that will relieve its distress, or
- (b) cannot be found immediately and informed of the animal's distress,

the authorized agent may, in accordance with sections 13 and 14, take any action that the authorized agent considers necessary to relieve the animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter, care and veterinary treatment for it.

179. My first task is to determine whether the Society justifiably formed the opinion that the animals were in distress when they were removed.
180. In approaching this question, I note that “distress” in s. 1(2) of the *PCAA* is a specialized term. It does not require the Society to make a finding of pain and suffering as a precondition to removing an animal. While pain and suffering were present here for many of the animals, that is not necessary for the definition of “distress” to be met. Rather, in accord with the purposes of this protective statute, the definition extends beyond that. The first three criteria listed in s. 1(2) – any one of which is sufficient to satisfy the definition – also constitute “distress”, and make clear that the Society is not required to find “pain” and “suffering” before it may move to protect an animal. Those factors reflect serious risk factors that would foreseeably give rise to suffering and harm if protective action is not taken. While they must not be trivialized in their application, they also do not require the Society to wait until the worst happens.
181. With this definition in mind, I do not find it necessary to list each and every animal in making my finding on this issue. Based on the very detailed veterinary evidence before me (which listed every animal and its condition), the videos, the photographs, the demonstrably low body weights of many of the animals, and based on what I am satisfied was the lack of adequate quantities of feed, inappropriate housing and a lack of adequate veterinary care and neglect, the Society was justified and acted appropriately in removing the animals at issue on this appeal on the basis that they were in distress. I am satisfied that each animal was properly removed based on at least one or more of the criteria set out in the definition of “distress”.

182. The Society's evidence was that animals were removed if they needed veterinary care. Animals deemed not to require veterinary care, and having met no other definition of distress, were not removed. In my view, this was a perfectly acceptable test to apply in the circumstances here, particularly with benefit of contemporaneous advice from a veterinarian who examined each animal. Given the circumstances of this case, where the veterinarian assessed that a particular animal needed veterinary care, the Society was justified in finding that the animal had been deprived of veterinary treatment, within the meaning of s. 1(2)(a).
183. The circumstances are important. When the animals were removed, their body score conditions were all noted by Dr. Walton, who determined that 64 per cent of the animals were underweight - that 95 % of the cats were underweight and 58 % of the dogs were underweight. Many dogs scored 2 out of 9 on the BCS scale and at least three dogs scored a 1 or emaciated. Almost all the cats were too thin. The goats scored 2/9 and even though Dr. O'Sullivan later said the goats were "systemically" healthy, he deemed them all under conditioned. Two of the sheep were described by Dr. O'Sullivan as being under conditioned, one slightly under conditioned even though otherwise systemically healthy. Dr. O'Sullivan remarked that the overall cause for low BCS was lack of nutrition either quantity or quality, which lack of nutrition was obviously a serious risk factor if left to continue. Dr. O'Sullivan also noted that two birds were slightly under conditioned. Dr. Walton appears to put some of the birds at a 1 or 2 but in any event both veterinarians present a description of animals as not eating enough food. I therefore find that as a group these animals were deprived of adequate food and were therefore in distress.
184. Three animals were deemed by Dr. Walton to be in critical distress and were euthanized. One was Peanut, which I discussed earlier. The other two animals, one dog and one cat, were found to be critically ill. The cat, a DMH (domestic medium hair), was emaciated, with a distended abdomen, grade III dental disease, severe dehydration, sunken eyes and feline leukemia positive. The dog, a Chihuahua, had a bilateral heart murmur grade 6/6, pulse deficits, hypothermia, and other medical conditions that were not sufficiently understood by me, but the necropsy said congestive heart failure was suspected and building.
185. I accept the evidence that many dogs had teeth that were rotting and causing pain on being touched. The photographs of the white pittie showed, contrary to the Appellant's denial, seriously black rotting teeth that were obviously rotting and that obviously could not be fixed with oral care gel. This was not the only animal with rotting teeth.
186. Many animals had skin issues and dermatitis likely from fleas and were still scabby. The dog with the amputated legs had an open sore. Several cats and dogs had eye discharge. Elongated nails and grooming issues were commonly seen on dogs and hooves needed trimming on some of the farm animals. The sheep's vagina area was inflamed. A goat had skin lesions. Even in the case of the rabbit that was seized with severely elongated nails, I am satisfied that, while the rabbit appeared otherwise healthy, the need to "groom" the severely elongated nails was not a mere cosmetic issue; clearly, it was linked to veterinary risks. I find that the removal was valid in the unique circumstances here, particularly as the Appellant has failed to convince me that she would trim the nails, would notice once the long nails caused a veterinary issue or would seek timely veterinary intervention. As previously stated, the Society does not need to wait for the animal to actually start suffering before taking protective action.

187. Clearly, in the circumstances here, the Society was justified in concluding that all of the animals that needed veterinary care were deprived of veterinary care. The Appellant admitted that the farm animals were not under the care of a veterinarian and she had never consulted a veterinarian. The Appellant also testified that few domestic animals saw a veterinarian in the past few years except as the Society recently ordered, and she preferred to communicate with her veterinarian without bringing the animals in to be checked.
188. I find that as a group, all the animals removed were deprived of veterinary care. I find that this deprivation, and the neglect that was, in my view, consequent to this, is not ameliorated by the Appellant applying over the counter medicines, or veterinary medicines she has prescribed, basically, herself.
189. I also find that the animals as a group were deprived of adequate space and adequate shelter. I am persuaded by the Society and by the supporting veterinary evidence that the dogs were kept in cages that were too small, and I have not been persuaded by the Appellant that she let them out of their cages for sufficient periods of time daily. I find that the dogs likely did spend most of their time inside those cages, sometimes two to a cage. I do not accept the Appellant's evidence the dogs "regularly" went outside given that some of the farm animals were seen and shown to be outside, and given the Appellant's evidence of how much time she devoted to the animals' care each day, which in my view shows she could not have possibly taken the dogs out and exercised them as she described. I was not convinced by the witness Ms. C.W.' conflicting and uncertain testimony that she did not see dogs in cages and they were running around, but not in the room she was in and only in the quiet room, which seems unlikely with 45 dogs. I was not convinced by the Appellant's testimony that dogs romped and played on the deck like at daycare, nor did I accept her explanation that she would put up and take down a temporary fence to separate the dogs from the farm animals. I am also disturbed by the reality that some of the farm animals were kept in small cages in the garage. SPC Auzins' testimony was that she only saw the same (not all) farm animals outside. Dr. Walton's testimony was that the ruminants required continual access to food and huge amounts of water which they were not receiving inside the cages. The birds were, in some cases, crowded into cages or inappropriately paired with dominant animals creating an imbalance in the cage, to the detriment of one bird.
190. The animals that required veterinary care in my view satisfied the definition of being "sick, injured, in pain or suffering". Removal was both the correct and reasonable decision for the Society to make.
191. I wish to make clear that I heard the Appellant's allegation that the Society entered her property having already decided that whatever condition they found the animals in, they were seizing the animals due to her "history" with the Society. Based on the evidence before me, I do not accept that this is a valid criticism. The Society had valid grounds for seizure. I note that the Society did leave a cat and three birds and one rabbit – and did so without any pressure from the Appellant who was not permitted to be on-site during the seizure - which makes clear to me that the Society did not set out to seize all the animals no matter what. I am satisfied that it exercised animal-specific and considered judgment on site. In my view, the reasons for the seizure were well-founded and well-supported and the animals seized were rightfully seized.

*Return of the animals*

192. Having determined that the seizure of the animals was justified, I turn now to the best interests of the 85 animals, and whether their best interests are served by returning them to the Appellant or by having them remain with the Society to dispose of at its discretion.

193. I note that the legislative framework was described in *Eliason v SPCA*, 2004 BCSC 1773 where Mr. Justice Groberman (as he then was) stated:

The scheme of the Act clearly is designed to allow the Society to take steps to prevent suffering of animals, and also to allow owners of animals to retrieve them, or have the animals returned to them, if they are able to satisfy the Society that the animals will be taken care of.

194. I also note the following passage from *Brown v BC SPCA*, [1999] B.C.J. No. 1464 (S.C.):

The goal and purpose of the act is explicit in its title. It would be unreasonable, in my view, to interpret the Act as the Plaintiff's counsel suggests. In the interest of preventing a recurrence of the cause or causes leading to the animal being in the distress in the first place, the court must be satisfied that if the animal is returned to its owner, it will remain the good condition in which it was released into its owner's care.

195. In approaching this issue, which is necessarily forward-looking, an Appellant's history with the Society can be relevant. The Society's reason refers to this history. I note that of the animals seized in 2012, most were returned to the Appellant, and some of the same animals were the subject of this seizure. As noted by Ms. Moriarty:

Of grave concern to me is that some of the Animals taken into custody in September are the very same animals that were returned to you in 2012. The BC SPCA did not have legal authority to keep the animals removed from you in 2012, but we had in the very least hoped that you would have learned your limits in the number of animals you could properly care for. It saddens me that we could have placed those animals into loving families back in 2012 in a matter of days or weeks. Instead, they were returned to you and we could only hope that you would take your duty as a person responsible, and as a rescue, and not only keep them free from distress while in your care, but find them a new home. Unfortunately, that did not happen.

196. In my view, this history is a factor the Society validly took into account that weighs against return.

197. That said, my decision that the animals should not be returned places primary weight on the evidence provided at this hearing arising from this seizure, including the testimony of the Appellant and the veterinarians, the material submitted by the Appellant, and the video and photographs.

198. The Appellant said several times during the hearing that she was doing the best that was humanly possible for her animals, that she loves her animals and wants them returned home. Her sincerity is beyond question. Unfortunately, however, she has, in my view, proved time and time again with virtually every decision she made about the care and health and treatment of her animals that she made poor decisions and her poor choices negatively impacted her animals. Indeed, the biggest concern with a return in my view is that the Appellant seems so unaware of how her decisions and actions hurt her animals even while she portrays herself as a helper to her animals. In my respectful view, she could not be more wrong.

199. I understand that many of her animals had rough starts and that she “rescued” them from a terrible fate, but she did not do enough to prevent them from suffering while in her care. Her animals were thin, some emaciated, yet she did not investigate why they were thin. She believes the domestic animals were thin due to fleas or worms. When she continually “de-flead” and de-wormed her animals and they didn’t get heavier, she then attributed it to being age-related. She did not investigate why her animals were so thin, and she should have noticed how thin they were if, as she said, they were romping and playing and running throughout the house. Clearly, this issue was cause to call the veterinarian.
200. When the Appellant testified that she monitored her animals’ weight, she did not even have a scale or keep a log book. I simply do not believe her when she says she can visually check, touch the animals, and memorize their weights and weight gains. Indeed, I found it particularly interesting that as we went through a few dogs’ weights, she did not refer to all of them by name but instead said she was trying to visualize them in their crates as they were situated around the room
201. I have no confidence in the Appellant’s representation that she would do as the Society told her regarding her animals’ veterinary needs. Her own actions show that she does not do what the veterinarians tell her about her animals. She did not show up for re-checks as indicated by the eye specialist. When she sought veterinary care for a rescue dog with a suspected gunshot wound, the veterinarian recommended x-rays and surgical repair of the wound and the Appellant declined surgical repair and wanted open healing. The veterinarian recommended re-check in ten days but the Appellant testified she just called him instead. On March 21, 2015, when she had Kylie in the hospital for vomiting and loose stools, the veterinarian noted that he took out the IV catheter as the Appellant wanted to keep costs down. When the dog Andy was sick on February 27, 2014, the veterinarian noted thick discharge from the eyes and ears, alopecia and swelling on the neck and discussed x-rays and another treatment (illegible). The notes from that visit record that the client declined and said she would take her dog to its regular vet the next day. On August 26, 2015 Andy was again at the veterinarian and the recommendation was “B.W. and biopsy” but client declined. The record indicated re-check in seven days but again no other visit was noted. I do not find that the Appellant would be willing or capable of providing the veterinary care for her animals as needed as it is clear by her conduct that she dismissed much of the veterinary advice she has very periodically sought.
202. The Appellant said she would get dentals done as needed and that she had the resources to do so. Again, her actions were to the contrary. When she saw photos of the white pittie’s blackened rotting teeth which Dr. Walton described as painful to any touch, the Appellant insisted that they were not that discoloured and that by using an over the counter oral gel she was providing the best oral care possible. It may have been the best care possible for her to provide given her unwillingness to seek veterinary care or properly monitor her animals’ health, but it fell so very far from the minimum dental care this dog and other animals needed. I do not find that the Appellant would be able to determine when her animals needed dental care if she cannot recognize a mouth so full of rotting teeth that 31 teeth had to be extracted. The Appellant also said regarding the white pittie that she was going to get the dog’s dental done in June, but first wanted to put the dog on antibiotics and allow it to gain weight, not considering that the dental issue might be causing pain leading to eating less and losing weight, as stated in the veterinary testimony. Then the Appellant said her veterinarian was on vacation in August, but she still did not get the dog’s teeth done as she wanted to continue antibiotics and wait for weight gain. This helps to convince me that the Appellant would find several excuses for not getting necessary dental work done; it shows a pattern

of behavior, and reinforces my conclusion that there is a significant and foreseeable risk that her animals would be in distress and pain because of her failure to seek veterinary care.

203. The Appellant admitted that she had not consulted a veterinarian at all regarding her farm animals, instead opting to consult Ms. C.H. Ms. C.H. testified that she was not a veterinarian, that she did not consult a veterinarian about her own goats and that she only went by for a quick visit once or twice a month. Ms. C.H. agreed that the Appellant “picked her brain” but I am not convinced that picking Ms. C.H.’s brain provided the Appellant with a solid base of veterinary information to help her care for her farm animals. As Dr. Walton testified regarding basic animal husbandry, an owner of farm animals should have a basic understanding of pasture management or supplements as well as an understanding of housing needs and possible problems with parasites and common ailments, when to bring a farm animal to a veterinarian and how much to feed a farm animal. Dr. O’Sullivan testified that from the size of the yard where the animals were kept, it was insufficient to provide forage to the number of animals kept there and the Appellant herself said she had skinny animals that would not eat the texts they were given. This should have alerted the Appellant to seek veterinary advice but she did not.
204. Thus, while I am very aware these animals were all rescues from unfortunate situations, this does exempt the Appellant from the *PCAA* or diminish the standard of care the Appellant is required to provide. To rescue a sick or suffering animal is a significant responsibility. Good intentions are not sufficient.
205. These animals were in the Appellant’s care for at least a year and in most cases many years. Clearly, in my opinion, these animals were thin due largely or entirely to the Appellant’s failure to feed them enough, her failure to seeking veterinary care when her home remedies were not successful or even not the best course of action, her failure to notice their conditions including deteriorating conditions, and her failure to follow veterinary advice.
206. I therefore find that if these animals were returned to the Appellant they would again fall into a situation of distress. These animals have begun their rehabilitation in the Society’s care. These animals have suffered enough and I find they will not be returned to the Appellant.
207. I did consider comments made by the British Columbia Court of Appeal in *Ulmer v. British Columbia Society for the Prevention of Cruelty to Animals*, 2010 BCCA 519 at paras. 37-38, in dismissing the argument that the Society must always give an owner “another chance” before it seizes animals:

In my view, s. 11(a) must be given a broad purposive interpretation. The words "does not promptly takes steps that will relieve ... distress" sometimes will lead to the authorized agent making orders and giving directions, in other circumstances he or she may conclude that the person responsible for the animals is unable to take the necessary steps or it may be apparent that the person is unwilling to take steps to relieve the distress. The cases referred to by the chambers judge illustrate these varied scenarios.

See also *Binnersley v. British Columbia Society for the Prevention of Cruelty to Animals*, 2014 BCSC 2338 at paras. 10-13.

208. For the reasons outlined above, I do not find that the Appellant deserves yet another chance to relieve the distress in these animals, as I do not think she is capable or willing to do so. At the risk

of repetition, one only has to look to her own evidence in the veterinary records to see that she declined veterinary treatment for her animals several times when those animals were sick enough that she consulted a veterinarian. She did not seek veterinary care for a dog that swallowed a toy and in her view that incident caused weight loss, and she elected to wait out its passing. I do not think someone who consults another “farmer” who also does not seek veterinary inspection for her goats, is capable of understanding that when goats get thin, they need veterinary care, especially when her own supplements are not working. I have no faith that someone who can look at a dog’s rotting mouth and argue that it isn’t *that badly discoloured* would be able to determine when an animal needs dental care.

209. The Appellant’s reliance on over the counter medications, self-diagnosis and self-developed treatment protocols combined with her denial of recommended veterinary services indicates to me that the Appellant would not promptly – or even in any suitably timely fashion – take the necessary action. The Appellant would not, in my view, reliably act on any direction of the Society if I were to make that a condition since she did not act on the direction of her many veterinarians in every instance and she takes a dim view of the Society.
210. I make no finding on whether the Appellant has the financial resources or whether a lack of them is the reason for her inaction. Nor do I make any determination that she does not care and therefore does not act. I simply find that she does not act in the best interests of her animals, as a group. Her animals got thin and sick on her watch and lost hair on her watch and developed skin issues that went inadequately treated on her watch.
211. The Appellant does not have an adequate plan for her animals. I found it striking that she simply parroted my questions back to me as the foundation of her plan for her dogs. When I asked if she weighed her animals on a scale she said she did not have a scale. When I asked if she kept a log of her 45 dogs’ weights, she said she did not, she memorized the weights and the changes of the weights. When I asked her plan she said she would get a scale and a log book. She said she would develop a closer relationship with her veterinarian, which, in my view, is unlikely given her unwillingness to follow veterinary recommendations. The Appellant also said she would continue to practice good dental health and eye health when in my view her practice thus far has been abysmal and to continue it would certainly hurt the animals and return them to distress.
212. The Appellant, in her written closing, says that Dr. O’Sullivan provided her with some management suggestions regarding the farm animals in his testimony which he felt would help increase the body condition of the goats and sheep which were noted by the Appellant moving forward. Yet she did not mention these when I asked about her plan and she does not itemize the suggestions in her closing arguments. In terms of increasing the sheep and goat text, she said they don’t eat it now so it is wasteful, but she would de-worm them, without, again, understanding the cause of her farm animals’ low body scores.
213. With the cats, the Appellant said her “plan” is that she really believes they are getting a good diet right now and they are more sensitive to fleas and now that they were treated for fleas they will thrive. She will get them a place to hide and furniture to enhance their quality of living. I cannot imagine the cats, many of whom were emaciated, thriving if she continued feeding them the “good diet” she believed she was already feeding them.

214. With the birds, her plan included things she “could” do not anything she would do.
215. I sincerely hope the Appellant understands that I heard her when she professes her love for all her animals, many of whom apparently call her home *home*.
216. I am an adjudicator, and adjudication requires that I make findings where evidence and positions are contested. I have done that to the best of my ability, without mincing words.
217. Having done do, I cannot stress enough how heartbreaking the circumstances of this case are. It is truly horrifying that so many animals need rescuing. Those who are properly engaging in the rescue of animals are performing very necessary and lifesaving work. It is impossible to hear this appeal without being moved by the unspeakable harm or neglect that befalls some of the animals that we humans claim to care for.
218. Despite this, the noble intention of rescuing an animal from distress or harm or neglect does not provide any rescuer with an opportunity to create or perpetuate an additional albeit different situation of distress for a rescued animal to live in. It is not enough to exchange one situation of distress for another, even if it is a slightly less harmful situation of distress; such an exchange cannot be anything other than unacceptable to humans and unbearable to the animals in question. To continue such suffering, even under the umbrella of rescue, is unacceptable. This is why the *PCAA* does and should apply to everyone.
219. It is vital that any rescuer be on guard against the very real mischief of being unable to say no to the next animal needing rescue when that person is stretched in caring for the animals already in his or her charge. There will always be one more animal needing rescue. I do understand the desire to say yes to one more animal; but such actions cannot be applauded or rewarded and certainly not ignored when saying yes to one more animal creates a situation of distress for other animals.
220. Finally, I will note that I am acutely aware that the Appellant does not wish to abandon or to be perceived as having abandoned these animals that were in her care, as they have been abandoned in some way in the past before her involvement. I want the Appellant to know that this decision does not equate with her abandoning these animals. Further, this case is ultimately about the animals’ best interests, not the Appellant’s interests. I am satisfied that the animals are now in a situation of better care, in their best interests.

## **VIII. ORDER**

221. Section 20.6 of the *PCAA* reads as follows:

20.6 On hearing an appeal in respect of an animal, the board may do one or more of the following:

- (a) require the society to return the animal to its owner or to the person from whom custody was taken, with or without conditions respecting
  - (i) the food, water, shelter, care or veterinary treatment to be provided to that animal, and
  - (ii) any matter that the board considers necessary to maintain the well-being of that animal;
- (b) permit the society, in the society's discretion, to destroy, sell or otherwise dispose of the animal;
- (c) confirm or vary the amount of costs for which the owner is liable under section 20 (1) or that the owner must pay under section 20 (2).

222. It is my order that pursuant to section 20.6(b) of the *PCAA*, the Society be permitted in the Society's discretion, to destroy, sell or otherwise dispose of all of the animals.
223. I note that the Society says it intends to find homes for these animals and I sincerely hope that the Society will make every effort to find homes for even the old and sick animals.

#### **XIV. COSTS**

224. Section 20 of the *PCAA* states:

- 20 (1) The owner of an animal taken into custody or destroyed under this Act is liable to the society for the reasonable costs incurred by the society under this Act with respect to the animal.
- (2) The society may require the owner to pay all or part of the costs, with or without conditions, for which he or she is liable under subsection (1) before returning the animal.
- (3) Subject to subsection (4), the society may retain the proceeds of a sale or other disposition of an animal under section 17 or 18.
- (4) If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within 6 months of the date the animal was taken into custody, claim the balance from the society.
- (5) Payment of costs under subsection (2) of this section does not prevent an appeal under section 20.3.

225. Section 20.6(c) provides that on hearing an appeal the board may “confirm or vary the amount of costs for which the owner is liable under section 20 (1) or that the owner must pay under section 20 (2)”.

#### *Position of the Parties*

226. The Society submits that it has incurred and continues to incur significant expenses with respect to the Animals, including costs associated with providing the Animals with food, shelter and other care. Costs in this case greatly exceeded the norm because the Society was required to close its Vancouver shelter for approximately 2 weeks following the seizure and relocate all other animals in its care at that time to accommodate and care for the Animals. The costs outlined below quite significantly underestimate the true costs incurred by the Society. However, to expedite this matter and for purposes of certainty and finality of this decision-making process, the Society is willing to present these underestimated totals at the hearing with the intention that presenting same should not prejudice the Society from claiming higher costs in subsequent matters.

227. The Society is seeking costs in the total amount of \$81,235.50, pursuant to s. 20 of the Act, as follows, taken directly from its submission:

A.	Veterinary and grooming costs:	\$4,378.65.
B.	SPCA time attending to seizure:	\$564.55.
C.	Housing, feeding and caring for the Animals:	<u>\$76,292.30.</u>
D.	TOTAL:	\$81,235.50

228. The veterinary and inspection costs are found in the Binder as follows totaling \$4,378.65:

Tab 21, p. 712	\$1,762.80
Tab 21, p. 713	\$315.00
Tab 21, p. 714	\$420.00
Tab 21, p. 715	\$149.79
Tab 21, p. 718	\$774.83
Tab 21, p. 721	\$103.18
Tab 21, p. 726	\$302.97
Tab 21, p. 730	\$149.79
Tab 21, p. 732	\$400.29
<b>Total:</b>	<b>\$4378.65</b>

229. The Society also incurred labour costs respecting its special provincial constables' investigations and seizure of the Animals. I estimate the costs associated with investigating, seizing and transporting the Animals at approximately \$564.55 (\$16.13 per hour x 5 hours (approx.) x 7 SPCA Employees).

230. In addition, the Society's costs to house, feed and care for the Animals exceed \$76,292.30, which have been calculated as follows:

- a. Costs for Dogs: 73 days (September 19, 2016 to November 30, 2016 (being the anticipated date of the BCFIRB decision)) x \$17.07/dog x 44 dogs = **\$54,828.84**
- b. Costs for Cats: 73 days x \$13.07/cat x 17 cats = **\$16,219.87**
- c. Costs for Goats: 73 days x \$24.50 = **\$1,788.50**
- d. Costs for Sheep: 73 days x \$14.70 = **\$1,073.10**
- e. Costs for Pig: 73 days x \$4.90 = **\$357.70**
- f. Costs for Chickens and Ducks: 73 days x \$20.48 = **\$1,495.04**
- g. Costs for Pigeons: 73 days x \$7.25 = **\$529.25**
- h. The Society was unable to determine an appropriate rate for the Quail, Rabbit and Turtle at the date of swearing this affidavit and as such waives the costs of same in order that a final decision may be made by BCFIRB in a timely manner.

231. The sum of \$17.07 per day per dog is broken down as follows:

- a. Food cost feeding Hills Science Diet: \$2.00/day
- b. Staff time at a rate of \$16.13 *per* hour: \$8.07/day
  - i. 10 minutes kennel and dog cleaning: \$2.69
  - ii. 10 minutes morning feeding: \$2.69

- iii. 10 minutes evening feeding: \$2.69
  - c. Overhead Costs: \$7.00/day (see below)
232. The sum of \$13.07 per day per cat is broken down as follows:
- a. Food cost feeding Hills Science Diet: \$1.00/day
  - b. Staff time at a rate of \$16.13 *per* hour: \$8.07/day
    - i. 10 minutes kennel and cat cleaning: \$2.69
    - ii. 10 minutes morning feeding: \$2.69
    - iii. 10 minutes evening feeding: \$2.69
  - c. Overhead Costs: \$4.00/day (see below)
233. Regarding overhead costs (item (c) in para. 20 and 21 above), the Society's Shelter incurs costs to maintain the facility, a portion of which costs directly benefited the Animals. This includes expenses associated with utilities (heating/electricity); general facility upkeep and maintenance; administration costs including ordering supplies and managing staff (cleaning and food supplies for animals); taxes on land use; maintaining the Society's computer office and other management systems; interacting with the Animals throughout the day beyond the mere feeding and cleaning of kennels including ensuring their emotional contentment; interacting with, directing, training and coordinating volunteers and other staff members, all for the benefit of the Animals (note: staff costs noted in this paragraph are over and above staff costs associated with any one particular animal, which are discussed under "staff time" above).
234. The Society has underestimated overhead costs at about \$7/dog and \$4/cat. These costs are estimates only and, as noted above, our costs are likely far greater particularly in this case. Actual total costs are very difficult to calculate absent advice from a forensic accountant. The costs to retain a forensic accountant to determine the actual costs will outweigh the benefits of potentially recovering boarding costs from the Appellant.
235. The Appellant says that in reviewing the costs, she is brought back to the statement of SPC Auzins who said that prior to the seizure, it was determined in a meeting that all animals requiring vet care would be seized. As the definition of veterinary care was deemed to include long nails, it is evident that the Society would be fully aware that it was a given that at the very least one could find a long nail amongst a group of animals. As well, it was presented in the media that the Society had cleared out the Vancouver shelter prior to the execution of the Warrant on September 19, 2016. When the Society arrived with the warrant on September 19, 2016, the Appellant testified that prior to their looking at the animals, Eileen Drever stated that, "No, no, we have a history, we are taking everything". There was a complete bypass of the PCAA allowing a caregiver who is present to relieve any distress that was thought to exist by the Society. The Appellant believes that given the preplanned actions of the Society to seize all the animals, without consideration of the fact that they were not in distress and one not in Extreme Critical Distress, that the Society should bear these costs.

## **XV. Analysis and Decision**

236. The Appellant is incorrect when she concludes that not one animal was in critical distress. In fact three animals were euthanized for being in critical distress. And I am not sure why the Appellant believes that she should not pay the expenses for caring for and providing food for and veterinary care for her animals while they have been in the custody of the Society. Most of the veterinary care was because of the Appellant not providing the necessary veterinary care these animals needed while they were in her custody. That cost should not be borne by the Society because the Appellant feels that the Society was not willing to provide her with an opportunity to address the situation that found 85 animals in distress. The Appellant proved she was unwilling or unable to adequately care for the animals as a group. The Appellant is mistaken if she believes that the Society should have come with just a few people and, if they found animals in distress, to wait for the Appellant, who until the seizure had failed to provide adequate care, to suddenly be able to provide adequate care including adequate food, all at the moment of seizure, and if she was then unable to, then allow the animals to continue to suffer while the Society arranged travel and shelter and food for 85 animals? The idea is preposterous and unacceptable.
237. The Appellant has provided no argument on the reasonableness of the Society's cost of care invoices and charges. I therefore find that the Appellant is responsible for the veterinary and care and other related charges as requested and detailed by the Society and that the costs as presented by the Society are reasonable.

## **XVI. ORDER**

I order that the Appellant pay the amount of **\$81,235.50**, to the Society as the reasonable care costs incurred by the Society with respect to the animals.

I note that the parties were advised in advance of the expected date of this decision. The Society has asked for expenses for the animals only up to November 30, 2016, prior to that due date. As the Society did not seek costs beyond November 30, 2016, the amount above, calculated based on the Society's claim in this matter, represents my full and final order in this matter.

Dated at Victoria, British Columbia this 2<sup>nd</sup> day of December, 2016

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

**Per:**



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Corey Van't Haaff, Presiding Member