

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 THREE CATS

BETWEEN:

E.M.

APPELLANT

AND:

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO
ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia
Farm Industry Review Board:

Chris Wendell, Presiding Member
Brenda Locke, Member as an Observer

For the Appellant:

E.M. on her own behalf

For the Respondent:

Christopher Rhone, Counsel

Date of Hearing:

August 19, 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 July 21, 2016 review decision issued under s. 20.2(4)(b) of the *PCAA* by Marcie Moriarty, Chief Investigation and Enforcement Officer of the British Columbia Society for the Prevention of Cruelty to Animals (the Society).
3. Originally, the Panel constituted to hear this appeal was comprised of myself and Brenda Locke. Unfortunately, due to unforeseen circumstances, Ms. Locke was late to the telephone hearing and I convened the hearing in her absence. As she was not privy to the entirety of the evidence on appeal, she attended as an observer only and did not participate in the deliberations. As such, any reference to the Panel in this decision is a reference to myself as a panel of one.

II. Brief Summary of the Current Decision Under Appeal

4. Three cats were seized by the Society from a property located in Duncan, British Columbia on June 23, 2016 when they were determined by an authorized agent of the Society to be in distress.
5. 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.
6. For reasons that will be explained in detail later, I have decided to order that the Society be permitted in its discretion to destroy, sell or otherwise dispose of the three cats at issue in this appeal.
7. In the normal course of dealing with this appeal, the issue of the Society's entitlement to its reasonable costs (associated with taking an animal into custody) under s. 20 of the *PCAA* would be addressed at the conclusion of the Panel's decision on whether to return the cats to the Appellant. However, in this case the Society has indicated that it will not be seeking its costs and the Appellant is obviously in agreement with that position. As such, there will be no assessment of costs except to note that in its submissions, the Society's position was that its waiver of costs in this case should not be taken as being indicative of anything more than its recognition that the circumstances of the Appellant make it such that the likelihood of recovery of such costs is exceedingly low. The Society was clear that from a legal perspective it considers its claim for costs to be well founded, however from a practical perspective, in this instance, there would be little use in seeking such an order.

III. The Society's Powers and Duties

8. 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".

9. 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).
10. 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.
11. 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

12. In this appeal, I have been 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 review¹. 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

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

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.

V. Preliminary Issues

13. All affidavits and witness statements, emails, photographs, and materials submitted were entered into evidence. Parties were sworn before giving oral testimony.
14. In the course of her submissions the Appellant stated that in addition to the three cats which were the subject of the July 21, 2016 review decision, she was also seeking the return of one of the kittens which she voluntarily surrendered to Jared Torontow, on or about June 22, 2016 (which circumstances are described below at paragraphs 47 - 51). The Panel's jurisdiction in this appeal arises only in respect to animals that have been seized from the Appellant by an authorized agent of the Society and not with respect to animals which she has voluntarily surrendered. While the Appellant now apparently regrets surrendering the kitten in question, that kitten was not seized from her and as such cannot be returned to her by this Panel under the appeal provisions of the legislation.
15. The Appellant raised an objection to the inclusion of photographs taken by Mr. Torontow during his initial visit to her property. It is worth noting in the first instance that these photographs were not referred to by any of the parties during the course of their submissions; except with respect to the Appellant's objection, nor were they referred to by Mr. Torontow during the course of his evidence. As such, while they were admitted as evidence in the proceeding, I have not relied upon the photographs in making my determination regarding the best interests of the animals. I have instead relied upon Mr. Torontow's oral testimony under oath.
16. However, despite the fact that the Panel is not relying on the photographs taken by Mr. Torontow, the Appellant's objection is not accepted by the Panel. Evidence tendered in proceedings before the Provincial board is subject to section 40 of the *Administrative Tribunals Act (ATA)* which allows the tribunal to "receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be allowable in a court of law".
17. The Appellant's second argument is that Mr. Torontow's photographs were taken by him in his employment capacity and as such subject to the *Privacy Act* and as such, to use the photographs for any other purpose is a clear breach of her rights under that *Act*. I agree with the Society that any rights that the Appellant may have with respect to an alleged breach of her privacy rights under the *Privacy Act* might be the basis of a civil claim against the person that she believes violated those rights, but that would not prevent the materials obtained by way of that potential breach from being included in the record of this proceeding especially given the broad power of admissibility referenced in s. 40 of the *ATA*. In short, the privacy legislation in British Columbia does not create a category of privilege under the rules of evidence which would preclude the use of materials obtained in an alleged breach of that legislation in this appeal.
18. The Appellant has also alleged that her rights under the *Canadian Charter of Rights and Freedoms* were violated by what she considers to be an illegal search of her home and seizure of her animals. In essence, the Appellant is asking this Panel to overturn or quash the warrant granted by a

Provincial Court Judge to the special constable in this case and thereby exclude any evidence obtained as a result of that warrant.

19. In *Binnorsley v. SPCA* (April 15, 2014), similar issues were addressed by the panel, at paragraphs 23-25:
 23. In his submission to the Society upon its review of the decision to take Bandit into custody and before BCFIRB on this appeal, the appellant challenged the validity of the warrant. He argues that the warrant and subsequent seizure and detainment of Bandit was unlawful. He argues that the Information to Obtain a Warrant (ITO) was misleading and failed to make full disclosure. He says among other things that there was no evidence before the presiding Justice of the Peace or Provincial Court Judge that the dog was in critical or normal distress or that it was impracticable for the informant (SPC) to attend in person to obtain the warrant. The term “premises” was not defined in the warrant and he questioned whether the warrant included Mr. Binnorsley’s apartment at the same address. He says the suggestion that no medications had been dispensed was inaccurate as the veterinary invoice listed Surolan [an ear medication] as having been prescribed. He disputed the reliance on comments from an RCMP constable who had attended the property on January 22, 2014 to assess the dog as he is not a veterinarian and not qualified to comment.
 24. Similar arguments were advanced before the Society and in her reasons, Ms. Moriarty concluded that the search warrant was properly obtained and executed.
 25. I have reviewed the ITO and the circumstances under which the search warrant was obtained and executed. However, I do not see my role as a decision maker tasked with hearing appeals under section 20.3 of the *PCAA* as giving me the authority to review the decisions of a provincial court judge or justice of the peace as to whether circumstances justify the issuance of a warrant. A party who believes that a warrant has been improperly issued or executed can challenge that decision through judicial review and ask by way of remedy that the warrant be quashed. Until such time as a warrant has been set aside, I am entitled to rely on its validity and I choose to do so in these circumstances. I want to make it clear that I am not suggesting that BCFIRB would never consider *Charter* arguments in the context of an animal seizure that took place without a warrant or by a person who had no authority because they are not an authorized agent. However, where, as here, the warrant has been issued by a court of competent jurisdiction, the appellant’s arguments all focus in one way or another on the warrant, and as I am satisfied that the warrant on its face applies to the premises in question, BCFIRB must in my view respect that court’s function and must also respect that it is for the superior court, not this board, to assess the legality of a search warrant.
20. The panel’s decision in *Binnorsley*, and in particular its decision with respect to its ability to review the issuance of a warrant by a provincial court judge or a justice of the peace, was subsequently reviewed and affirmed by the Supreme Court of British Columbia in *Binnorsley v. BCSPCA* and BCFIRB, 2014 BCSC 2338, where after referencing paragraph 25 of the decision above, Mr. Justice Thompson held “I think that this was a perfectly reasonable course for the adjudicator to adopt”. This Supreme Court decision was appealed to the Court of Appeal and subsequently dismissed, *Binnorsley v. BCSPCA*, 2016 BCCA 259. There is nothing in this Appellant’s argument which would cause this Panel to diverge from the approach set out in *Binnorsley*, *supra*.
21. Further, although it was not referenced in *Binnorsley*, *supra*, section 45 of the *ATA* applies to BCFIRB in its statutory mandate under the *PCAA* and it specifically prohibits tribunals to which it applies from deciding constitutional questions relating to the *Charter*.

22. For all the above reasons, this Panel accepts into evidence the material and oral testimony arising from the execution of the warrant provided to the special constable in this case and the Appellant's objection to the inclusion of that evidence is rejected.

23. The following materials were admitted into evidence:

Appellant:

- a) Appellant Notice of Appeal (**Exhibit 1**)
- b) Appellant's Submission (**Exhibit 2**)
- c) Affidavit of Elizabeth McKinnon (**Exhibit 3**)
- d) Affidavit of Margaret Corbett (**Exhibit 4**)
- e) Appellant witness list (**Exhibit 5**)
- f) Appellant's final reply submission dated August 17, 2016 (**Exhibit 6**)

Respondent:

- a) BCSPCA Binder (Tabs A-Z & AA-HH & 2-21) – (**Exhibit 7**)
- b) Dr. Langelier's July 9, 2016 report; (**Exhibit 8**)
- c) August 10, 2016 affidavit of M. Moriarty - (**Exhibit 9**)
- d) BCSPCA Written Submission dated August 12, 2016, (**Exhibit 10**)
- e) SPC Matt Affleck and Jared Torontow - Witness Contact Form; (**Exhibit 11**)
- f) Dr. Langelier - Expert Witness Contact Form; (**Exhibit 12**)

VI. The Appeal

Brief History

- 24. The Appellant owns a rural property in Duncan, British Columbia. The Appellant has historically kept horses and chickens as well as her domesticated pets (cats and dogs) at her property. She currently has two horses and a flock of chickens on the property which are not part of this appeal. The Appellant is a lawyer, called to the bar in the province of British Columbia.
- 25. The Appellant was the owner involved in a previous seizure of other animals by the Society from her property in June of 2015. The Appellant appealed that decision to BCFIRB and the panel's decision in that appeal was reported under *EM v. BCSPCA* (August 18, 2015). The decision in that appeal is now under Judicial Review with the Supreme Court of British Columbia.
- 26. The Appellant has a number of historical reports and interactions with the Society. She argues that the previous involvement of the Society with her animals should not be part of this Panel's consideration with respect to the three cats that are the subject of this appeal. The Appellant also argues that insofar as the Society and this Panel rely on the historical evidence of her involvement in animal cruelty investigations and appeals, the Panel should also take into account her historical grievances with the conduct and practices of the Society.

27. The Panel agrees with the Appellant that the historical reports and interactions with the Society are not relevant in terms of determining whether the animals in question in this appeal were in distress at the time they were taken into custody. On that issue, the Panel has based its decision on the evidence heard relating to the June 23, 2016 seizure.
28. However, when considering the question whether the animals would be returned to a situation of distress, the Appellant's historical conduct becomes a relevant factor in the Panel's determination of whether the circumstances that led to the seizure are likely to improve over time. I have reviewed the previous panel's decision regarding the circumstances of the seizure that occurred in June of 2015 and where I rely on any of the findings made by that panel, I expressly make note of that in this decision.
29. Finally, the historical relationship between the Appellant and the Society would only be relevant insofar as there was evidence that the Society had precipitated a situation of distress or fabricated evidence of a situation of distress, or otherwise interfered with the Appellants ability to care for her animals or in the investigation process to the prejudice of the Appellant. It appears to be common ground that the Appellant does not like the Society and feels that she has been unfairly targeted by the Society. However, those are not issues that the Panel can or will address in this decision. I am simply seeking to determine the best interests of the three cats that are the subject of this appeal and the human relationships that surround that determination are not relevant except as they pertain to the actual distress (or lack thereof) of the animals at the time of seizure and upon a possible return.
30. As set out in further detail below, on June 23, 2015 Special Provincial Constable (SPC) Matt Affleck, along with several other individuals attending on behalf of the Society, attended at the Appellant's residence to execute a warrant to remove any animals that were determined to be in distress. SPC Affleck had been previously informed by Mr. Torontow that he had attended at the Appellant's residence in the course of his work on June 20, 2016 and that he had significant concerns regarding the cats and kittens that were being kept by the Appellant at the residence due to the living conditions and the apparent health issues the cats and kittens were displaying. In fact, the kittens were subsequently surrendered by the Appellant to Mr. Torontow on or about June 22, 2016. As a result, at the time that SPC Affleck attended at the property he only seized the three cats that are the subject of this appeal.
31. SPC Affleck had previously attended the Appellant's property on a number of occasions and was in fact the special constable that had removed her animals in June 2015 for similar reasons of health issues arising from unsanitary living conditions.

Society's Decision Under Appeal

32. In her July 21, 2016 written reasons, Ms. Moriarty of the Society concluded the three cats were in distress when they were seized, and she declined to return the cats to the Appellant. The relevant portion of her decision is excerpted here:

I turn now to the question as to whether or not it would be in the best interest of any or all of the animals to be returned to you.

In making any determination regarding what is in the best interest of the Animals, I consider any past history of animal care as it assists me in answering the question as to 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 9.2 of the Act. As is set out in the ITO, you have a significant history with the BCSPCA dating back to October 2006. You have been provided with both verbal and written recommendations and directives to resolve situations of concern and relieve animals of distress. Of particular note is the fact that almost one year ago to the day, we had to execute a warrant and seize animals in distress from you. As in this situation, you appealed the decision to seize your animals and sought their return. I made a decision at the time not to return animals to you as I did not feel it was in their best interest and I will admit that this decision will read very similarly to my previous decision in July 2015 as unfortunately, the same issues that arose then are present now.

You appealed my July 2015 decision to the BC Farm Industry Review Board and after a hearing, the presiding member, Corey Van't Haaff, rendered a decision on August 18, 2015 (the "Decision") that confirmed the BC SPCA decision to not return the animals to you. The Decision goes into much detail and I find there are a number of statements made by Ms. Van't Haaff that are particularly helpful and applicable to the matter at hand. In addressing the issue of the health of the animals seized, Ms. Van't Haaff states at paragraph 140:

I do not believe that if the cats or kittens were returned, they would remain in a condition that protected them from being in distress. In fact, I believe if the cats were returned they would become sicker and would infect any other cats or new kittens to also become sick. In my view, in this case, this Appellant has no ability, based on her own testimony, to recognize suffering or distress or even basic symptoms of health issues in her animals. That lack of recognition of distress is either compounded by her unwillingness to get veterinary care, or is the reason for not getting them care; either way, it is unacceptable.

While I wished this was not so for the Animals' sake, the most recent seizure of some of your Animals confirms that Ms. Van't Haaff was correct in her belief. The veterinary records pertaining to your kittens clearly demonstrate animals that were suffering, sick and in desperate need of veterinary treatment. The three Adult cats all had untreated flea infestations to varying degrees, damaged lungs and one cat had mild upper respiratory infection. I have no doubt that if left in your care, any other medical issues that arose would remain largely unattended to. In making my decision, I rely on the medical reports of Dr. Langelier.

The Decision also considered in detail the living conditions provided for animals in your care and as with the matter of your ability to provide adequate veterinary treatment, I find the conclusions of Ms. Van't Haaff regarding the living conditions in your home to be persuasive for the purposes of this decision. At paragraph 158, she concludes:

Based [on] a careful consideration of all the evidence, I conclude that in the circumstances of this case, the Appellant's home is unsanitary and does carry a significant risk of harm to the dog (and the cats/kittens) and I have no confidence, based on the lack of insight by the Appellant, that this condition would change...

Again, the evidence surrounding the current seizure supports this conclusion, as does the findings of Dr. Langelier who summarizes in his report that "the high levels of ammonia, presence of mold, fecal and urine contamination as well as household hazards make this an environment to which these animals cannot be returned as it will be putting them in harm's way.

I have reviewed all of your submissions and I find them more troubling than persuasive. I say this because, as was the case in 2015, you do not seem to be able to recognize or acknowledge the health and living conditions facing your animals. I appreciate that you sometimes do provide veterinary care (as was evidenced by the bill associated with treating your cat that was hit by a car), however, at least in this case, this was for a medical issue that would be obvious to anyone and does not speak to your ability to provide continued good welfare for your animals.

In reviewing my July 2015 decision, I felt it was important to reference the following paragraph from that decision:

I appreciate that you have surrendered a significant number of the animals seized and that decreasing the number of animals in your care could assist in certain circumstances in ensuring that any animals returned would be properly cared for. However, the reality of your circumstance is that you still have a number of animals in your home (cats/horses) that we have had to issue orders for and while there has been some compliance, there has again not been complete compliance. Adding even more animals again to the mix would be, I feel, negligent on my part as I would simply be setting you up for failure. I would urge you to comply immediate with any outstanding orders for animals currently in your custody and to concentrate on ensuring these animals remain free from distress.

It is clear that you did not heed this advice and here we are again, having to remove animals in distress from your care. Of particular concern is the fact that you continue to allow your animals to reproduce just adding to the suffering. This is completely irresponsible and borders on a callous disregard for the welfare of animals relying on your care. I can only beg you to not continue this cycle of neglect.

Based on all of the above, I do not feel that it is in the best interest of the Animals to be returned.

The Society's Case

33. The Society relied on all its submitted material and submissions. With the exception of the photographs provided by Mr. Torontow (as noted above), the Panel reviewed and considered all material, submissions and testimony, whether or not it is specifically referred to in this decision.

Witnesses

Dr. Kenneth Michael Langelier

34. Dr. Kenneth Michael Langelier is a veterinarian who graduated in 1981 and has since been granted the Order of British Columbia for his work as a vet including work with wildlife and in his work in animal cruelty matters. His practice includes small animals, wildlife and exotic animals.
35. Dr. Langelier was in attendance on June 23, 2016 for the seizure of the animals at the Appellant's property. He described the purpose of his attendance as deriving from the issue of whether the environment in which the animals were being housed would be sufficiently unhealthy to preclude their return. He noted that during the removal that occurred in 2015, one of the issues that arose was the living conditions of the animals and whether those living conditions would in and of themselves cause distress to the animals. Given that he hadn't attended the seizure in June of 2015, he was unable to give evidence in that proceeding with respect to the actual conditions from which the animals were removed and therefore his attendance in this instance was to provide that context in terms of the seizure.
36. Dr. Langelier provided a report which was included at Tab 12 of Exhibit 7 that sets out his findings with respect to the medical issues associated with the seized cats, and gives his opinion with respect to the causes of those medical conditions and the environment from which the cats were seized.
37. Dr. Langelier noted that the cat identified as 406681 had a very increased respiratory rate and pronounced increased lung sounds. The cat had a thin body condition and a significant amount of fleas were seen with associated flea feces. Dr. Langelier also noted, that with respect to this

particular cat, there was moderate generalized peribronchial and institial changes indicating primary airway disease more severe than feline asthma and indicating airway inflammation and possible fibrosis due to chronic disease such as from inhaling high levels of irritating ammonia.

38. With respect to the cat identified as 406682, Dr. Langelier noted that it had a thin body score being 2 out of 5 and also had multiple fleas and a large amount of flea feces. This cat also had engorged mammarys which may have been indicative of having recently had kittens.
39. With respect to the cat identified as 406680, Dr. Langelier noted it had significant infestation of fleas and corresponding traces of flea feces. Dr. Langelier noted that the red blood cell count was at the lowest end of the normal and the hemoglobin level was low most likely due to flea bite blood loss. Dr. Langelier also noted that this cat had multiple scratch and bite wounds, broken nails and oozing wounds likely from fighting. This cat also showed some signs of lung pathology, possibly arising from the high ammonia environment.
40. Dr. Langelier stated in his concluding paragraph of the cover page of his report, that “High levels of ammonia, presence of mould, fecal and urine contamination as well as household hazards make this an environment to which these animals cannot be returned as it would be putting them in harm’s way. This is evidenced by the damage to their lungs, multiple wounds and heavy flea burden. Further to that I would suggest that any remaining animals on the premises be removed.”
41. Dr. Langelier stated that on his attendance at the property with the SPCA, he noted a strong ammonia smell and identified cat feces in numerous places throughout the house. Dr. Langelier noted that the smell of ammonia was so overpowering that he could only stay in the house for short periods of time. He also noted that based on his observations there were likely two cats that were left behind as they were not trapped during the course of the seizure. He noted his concerns with respect to the potential for these two remaining cats to develop similar health issues to the ones that were seized.
42. Dr. Langelier noted that with respect to the nine kittens surrendered in the days prior to the seizure of the cats at issue in this appeal, he had reviewed their files and in particular the necropsy reports with respect to two of the kittens that had died. He noted in particular that one of the kittens had died of toxoplasmosis which is a parasite passed between rodents and cats that can cause serious health problems to cats as well as to humans. Dr. Langelier had never personally seen an infestation of toxoplasmosis in which the parasitic contamination of the host cat had been severe enough to lead to its death.
43. Dr. Langelier further noted that, with respect to the high levels of flea burdens on all of the cats seized, the proper protocols for having those fleas removed would require long term vigilance with the proper medications. The cats were likely to be re-infested as a result of the environment itself which would continue to carry eggs for some period of time until such time as the environment had been fully cleaned of those eggs or the eggs had failed to hatch naturally over time due to the lack of an untreated host animal being available.
44. On cross examination, Dr. Langelier noted that for the amount of ammonia smell that he had experienced in the home, he expected that the home would have had to been sprayed with urine, likely by male cats, for an extended period of time.

45. He also noted on cross examination that there are products that can be used for fleas which would not be detrimental to kittens, if used on the mother and the kittens. In fact, he noted that it would be a priority to treat both the mother and the kittens in order to ensure that they were not infested with fleas and would not suffer the corresponding negative health effects.
46. Dr. Langelier further noted with respect to the toxoplasmosis in the deceased kitten that it had likely been infected as a result of the rodent feces, which was several centimeters thick in parts of the basement of the residence and in the garage area.
47. He again noted in cross examination that he had attended with the Society to assess whether the animals were in distress and that he regularly worked with the Society with regards to animal cruelty investigations although he was not an employee of the Society.

Mr. Torontow

48. Mr. Torontow is employed as a bailiff and works as an officer of the court. Mr. Torontow attended at the Appellant's residence on June 21, 2016 to execute a Writ of Seizure and Sale with respect to an unrelated judgment. At the time that he attended at the residence, the Appellant gave Mr. Torontow a tour of her house and her property to assist him in assessing her assets with respect to the unrelated judgment.
49. Mr. Torontow described the home as "horrific living conditions", "just a mess", and being in "complete disarray". He noted that it was very difficult to breathe in the residence, that there were extensive amounts of urine and feces visible throughout the home, that there were rodent feces in the basement and that there was an open bucket of oil next to the furnace that was adding to the difficult breathing environment. Mr. Torontow noted that he saw animals, mostly kittens in poor health, and that many of the kittens' eyes were oozing and closed from "gunk" and crusting.
50. Mr. Torontow told the Appellant that he had worked with the Victoria Humane Society and asked if there was any possibility that the Appellant would allow him to take her animals to the Humane Society. Mr. Torontow left that meeting without seizing any assets associated with the unrelated judgment and the Appellant agreed to pay the cost associated with his attendance which led to Mr. Torontow attending at her office later to pick up the fees in downtown Duncan. In the meantime, Mr. Torontow made a call to the Society (BCSPCA) with respect to his concerns regarding the animals at the Appellant's property.
51. The Appellant later agreed to surrender the kittens to Mr. Torontow who returned to her property on June 22, 2016 with a cat carrier. At that time he was able to gather 9 kittens which he then brought back to his residence for the night and dropped off at the SPCA the next morning. Mr. Torontow was later contacted by the Appellant with respect to whether or not he had reported her to the SPCA and at that time Mr. Torontow denied that he was the person that made the report.
52. With respect to the condition of the kittens that were surrendered into his care, Mr. Torontow noted that their eyes were stuck together; there was fresh green mucus coming from their eyes and they looked very sick. He noted that the kittens were filthy and saturated in their own urine. Mr. Torontow kept the kittens separate from his own animals as he was concerned with respect to their health issues. He noted that he had never seen cats in such horrendous condition.

53. Under cross examination, Mr. Torontow acknowledged that while he had previously discussed taking the kittens to the Humane Society with the Appellant, he had instead taken them to the Society (SPCA). He acknowledged that he had lied to the Appellant when she had asked him directly if he had been the person that reported her to the Society (SPCA), however he was also clear that he had felt obligated to make the report to the Society (SPCA) due to his concerns regarding the animals at the Appellant's residence.
54. He noted that during the course of his attendance at the house that he had drawn the Appellant's attention to at least two spots of feces and/or vomit in the house and that the litter boxes were overflowing to the extent that they were being used at all.
55. Mr. Torontow agreed that he had asthma and was more sensitive in terms of the breathing environment. He further noted he would have likely shown up at the time of removing the kittens with a full mask except that he did not want to offend the Appellant.
56. He noted in his conversation with the Appellant subsequent to the surrender of the kittens, that she had discussed with him her concerns with respect to the Society (SPCA) and the difficulties that she'd had with the Society (SPCA) in the past. He noted that in a later conversation she was quite upset at the prospect of the kittens having been provided to the Society (SPCA). He also noted repeatedly during cross examination his overwhelming concerns with respect to the Appellant's living conditions and in particular the amounts of feces and debris, possible black mould, and the overall odours in the home and the detrimental effects that that environment would have on any person or any animal living there.

Special Provincial Constable Matt Affleck

57. SPC Affleck is a Special Provincial Constable (SPC) appointed under the *Police Act* who works for the Society. SPC Affleck was the person who filed the information to obtain the warrant and was in fact provided the warrant by the Provincial Court. He noted that the key reasons for obtaining the warrant were the incidents that had occurred in 2015, the ongoing lack of veterinary care and the unsanitary conditions. SPC Affleck was also informed by the report that had come in from Mr. Torontow with respect to the current nature of the living conditions and the concerns with respect to the animals that were remaining in the home.
58. SPC Affleck noted that he had in fact seen the surrendered kittens before the seizure of the three cats and that in his estimation many of the kittens were near death. He noted that the kittens were very sickly and many of them could not support their own weight and were falling over. He stated that given the Appellant's history, the report made by Mr. Torontow, and his review of the conditions of the kittens, it was clear to him there may be other animals in distress on the property.
59. SPC Affleck stated that he had attended at the property on the date of the seizure with SPC Tony Morrison as well as two RCMP officers and Dr. Langelier. He noted that he was immediately hit with overwhelming smell of ammonia; there was feces covering the floor as well as a hassock.
60. In fact, SPC Affleck noted on a few occasions during the course of his testimony that it was a challenge to not step on some form of feces whether new or old, or the stains remaining from feces that had been cleaned up in the past, as the entire floor was covered with some kind of stain or remnant of feces. He noted that at the time of seizure the smell of ammonia could possibly have

been slightly less than at the time of the seizure in 2015 at which time the individuals involved had worn full face masks to protect themselves against the amount of ammonia in the residence. However, he was also clear that the residence was still filthy and that there was a general saturation of urine and feces throughout the house. He noted that he had burning in his nostrils and that he also felt that the ammonia was affecting his throat almost immediately upon entering the house and that the two RCMP officers that attended would not go inside the residence. He stated that he had to leave to get fresh air repeatedly during the course of the seizure.

61. SPC Affleck went through a number of photographs that had been provided in evidence showing what he described as squalid living conditions including urine and feces stains as well as new piles of cat feces and significant piles of rat feces in the basement, in some instances several centimeters thick.
62. SPC Affleck also noted that he had used an ammonia test strip to check for the ammonia levels in the house, however he acknowledged that he is not trained or an expert with respect to ammonia levels. The results of the ammonia test strips were included into evidence by way of the photographs taken of the test strips at the time. The Panel observes that the ammonia levels showed as high on the strips in the photographs.
63. SPC Affleck further noted that the water that had been left for the cats was not being regularly changed as there was a scum or residue in the bottom of the pot demonstrating that it hadn't been properly cleaned. He noted that the only reason that they had not removed the other cats on the property was because they were unable to catch them and that the cats that they had removed were required to be in a segregated area when they were first brought to the Society's facilities in order to ensure that they did not infect any other cats with any possible diseases.
64. Under cross examination, SPC Affleck stated that he had tried to contact the Appellant prior to attending at the residence and that he had wanted to conduct his review and possible seizure in as unobtrusive way as possible. He acknowledged that the Appellant had requested that he personally not attend, however he noted that he was the person with conduct of the file in the area and the only Special Constable who was able to properly deal with the matter.
65. SPC Affleck noted that the search warrant allowed him to bring support personnel onto the property and that was the basis upon which he brought Dr. Langelier to the property. He further noted that the removal of the animals from the Appellant was not part of any vendetta that he or the Society had against the Appellant and that in fact, he has attempted to work with the Appellant on numerous occasions to try and mitigate the issues that she had in taking care of her animals.
66. SPC Affleck denied that it was an over exaggeration to state that it was difficult to avoid stepping on feces in the house as he noted that the feces stains covered most of the flooring in the house where there were not actual piles of recent feces.
67. SPC Affleck noted that Dr. Langelier was in attendance during the seizure to make the assessment in terms of whether the animals were in distress and that he relied on Dr. Langelier's assessment in that regard.

The Appellant's Case

68. The Appellant relied on all her submitted material and submissions, and the Panel reviewed and considered all material, submissions and testimony, whether or not it is referred to in this decision.

Witnesses for the Appellant

Margaret Corbett

69. Margaret Corbett is a friend of the Appellant and estimated that they have known each other for approximately 5 years. Ms. Corbett stated that the Appellant is exceptional in terms of her ability to take care of animals and noted in particular certain instances in the past in which the Appellant had gone to great lengths to get food and attend with the horses that the Appellant was keeping at Ms. Corbett's property.
70. Ms. Corbett also noted that the Appellant had made great efforts to take care of her dog, Shilo, despite the fact that Shilo was a very high energy dog that required a significant amount of attention. It was Ms. Corbett's evidence that the Appellant clearly loves animals and takes care of them and does not abuse them.
71. Under cross examination Ms. Corbett noted that she had never in fact been inside the Appellant's home and that she had only been on her property once several years ago.
72. Ms. Corbett stated repeatedly that animals were not concerned with the cleanliness of a home however, she conceded that if somebody was a "hoarder" that might affect the health of the animals. Despite not having ever been inside the Appellant's home, she stated that she did not consider the situation in these circumstances to accord with what she considered to be a "hoarder".
73. During the course of Ms. Corbett's direct evidence and her cross examination she attempted to provide evidence with respect to what she considered to be the improper practices of the Society insofar as their dealings with the Appellant over time. The Panel repeatedly redirected Ms. Corbett to focus her evidence and her attention on the animals that were the subject of this appeal and any evidence that she could provide with respect to her understanding of the Appellant's ability to provide a proper environment for those animals.

E.M.

74. The Appellant gave evidence on her own behalf. Much of the evidence given by the Appellant concerned her historical disagreements with the Society and what she considers to be misconduct in particular with respect to SPC Affleck's actions associated with the removal of her animals in June 2015 and in June 2016.
75. The Appellant noted that the concerns with respect to the cleanliness of her house were overstated, that the photographs taken by the Society were done in a manner to present her house in the worst manner possible and that she had cleaned up her house repeatedly since last year. She stated that she would to continue to clean her home and renovate it as her financial situation allowed.
76. The Appellant took issue with Mr. Torontow's conduct insofar as she stated that he had represented to her that he would provide the kittens to the Humane Society and not to the SPCA. Furthermore,

she noted that he had specifically lied to her when he had told her that he was not the person that had reported her to the SPCA.

77. In going through her timeline of the day of the seizure and the day prior to the seizure when she was initially provided notice that the SPCA intended to attend at her property, the Appellant noted a number of instances where she believed SPC Affleck had failed to properly correspond with her or take into account her wishes that he personally not attend at her property.
78. She stated and provided receipts to demonstrate that she had bought Advantage (flea medication), repeatedly over the last several years in order to be able to take care of flea issues associated with her pets. She noted that she had previously taken her animals in for veterinary care. In particular, she noted that when one of her cats was hit by a car several months earlier, she had taken it to a vet to be given proper medical care.
79. The Appellant agreed that there are rodents living in her basement but that she rarely goes into the basement. In terms of a program for rodent control over and above the control provided by the cats in her home, she did not like the idea of killing any animals including the rodents that infest her property.
80. She noted that she is often precluded from being able to get the type of veterinarian care for her animals that the Society requests as a result of the financial burden of obtaining such services being beyond her means. She stated that she is trying to take care of those medical issues for her animals as her financial resources allow over time.
81. Under cross examination, the Appellant reviewed a number of the photographs taken by the Society and agreed that there were piles of recent feces, and feces staining on portions of the floor. The Appellant provided a number of reasons for other instances of staining in the house including blaming previous pets and the overall age of the residence. She generally maintained the position that the living conditions were not as bad as had been presented by the Society.
82. When the issue of the health of the kittens that she had surrendered was put to her, the Appellant acknowledged that some of the kittens were in poor health, but she gave evidence to the effect that kittens often develop health issues and that it was her view that the mother cat would provide care for the kittens over time. She noted that in the past she had taken kittens with health issues to the vet only to have those kittens die in any event. As such, she did not consider it to be a worthwhile use of her resources to take kittens in for veterinary care when the mother cat could provide the best care for the kittens.
83. With respect to the ammonia smell in her home, the Appellant again suggested that the nature of the smell had been grossly overstated by the witnesses for the Society. She acknowledged that she had male cats that had been spraying in her property, likely for years. She noted that she generally kept the windows open in her property and on the day of the seizure the Society had apparently closed the windows in the home in their attempt to capture the cats and that lack of air flow may have increased the readings with respect to the ammonia levels on the property.
84. The Appellant also stated that she cleans out her basement on an annual or semi-annual basis in the spring and that some of the debris noted by the witnesses for the Society in the basement would be

dealt with during that annual clean out. The Appellant also provided photographs of the three cats that are the subject of this appeal, in her home in apparent situations of comfort and health.

VII. Submissions, Analysis and Decision

85. The Appellant's position is that the seizure of her cats arose from the nature of her relationship with the Society. She submits that the Society's conduct demonstrates that it has treated her unfairly, both in this instance and over time, and that the Society has grossly overstated concerns regarding her living conditions in order to unlawfully seize her animals. The Appellant seeks the return of the three cats to her care.
86. The Society's position is that the three cats in this appeal were in distress and that their distress derived directly from the Appellant's living conditions. The Society submits that the Appellant is either unable or unwilling to take the steps necessary to improve her living conditions such that the cats could be returned to the Appellant without having them go back into a situation of distress. The Society points to the Appellant's history of animal cruelty investigations and cases to demonstrate that she has not changed her conduct over time and that there is no reasonable prospect that she will change her conduct in this instance. The Society in particular notes that with respect to the kittens that were removed just prior to the seizure of the cats, some of those kittens died and all were likely close to death at the time that they were surrendered. The Society submits that it cannot be in the animal's best interests for them to be returned to the Appellant under any conditions.
87. 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 Cats

88. The Panel has no difficulty concluding that the three cats that were seized from the Appellant's home, which are the subject of this appeal, were clearly in distress at the time that they were removed based on the definition of distress as set out above.
89. Dr. Langelier's evidence with respect to the conditions of the animals set out in his report demonstrates that the cats in one form or another were all either injured, sick or suffering and were also likely in pain which meets the criteria in s. 1.2(b) above. The Appellant's suggestion that the cats were not suffering to such an extent to justify the seizure is not accepted by the Panel. Dr. Langlier's evidence noted chronic lung conditions, low bodyweight, and flea burden significant enough to lead to anemia. Furthermore, there is no expectation at law that the animals would need to reach some extreme level of suffering before the definition of distress would attach. In this case, all three cats would clearly fall within the definition of distress under ss. 1(2)(b) of the *PCAA*.
90. With respect to the definition of distress under s.1 (2)(a.1) of the *PCAA*, the Panel further notes that the current conditions in the Appellant's home are by any reasonable measure unsanitary and in

fact it seems likely that the conditions have continuously been at an unsanitary levels since at least the time animals were removed as part of the previous seizure in July 2015. In *E.M v. BCSPCA*, BCFIRB, August 18, 2015, at paragraphs 125 – 126, the panel observed as follows:

The fact was that once the Society entered the property, it found several animals in varying degrees of distress. One kitten was so sick it died shortly after it was seized. All the cats were underweight; and all the kittens were underweight, with many having obvious discharge from their eyes and noses, with some crusted shut, according to photographs.

Further, the condition of the home convinced the Society that there were unsanitary conditions causing distress and for all these reasons, it seized the animals it was able to catch. The fact that what was initially thought of as only fleas turned out to be fleas and ear mites actually makes the seizure more compelling to me. The kittens were losing blood to the fleas' feeding behavior; the ear mites were causing pain and were filling the ears of the cats and kittens with copious amounts of residue that it had to be scooped out with q-tips. The volume of material on each q-tip was extreme, and SPC Affleck estimated three q-tips per cat.

91. After considering the definition on “unsanitary” the panel concluded at paragraphs 153-154:

The Appellant’s home, according to the photographs and the testimony of SPC Affleck, was filled with feces and smelled of ammonia and had rotting food out and had large rodent droppings in a wide area in the basement (whether or not the animals went down there) and had enough moisture around that floors were wet, water stains were visible on ceilings and walls and wood and drawers and cupboards. Further, there were dark spots that were described as mould-like substances by SPC Affleck and referred to as mould by the veterinarian and in my own conclusion, given the water visible and staining and pattern and appearance, and given no other explanation by the Appellant, I find on the balance of probabilities that this was mould. The Appellant did not offer any explanation for what was appearing on the walls and other areas other than to question witnesses about their mould experience.

I conclude from the photographs that there were vast amounts of feces in the home, from thick piles against walls behind furniture to one white chair the Appellant says was in her living room which appears to have splatter and a pool of diarrhea on it, likely dried.

92. The Panel finds a marked similarity between the findings of the previous panel and the photographic evidence from the Society tendered in these proceedings which demonstrate so much animal feces and urine staining in the house that the proper descriptor of the living conditions in which the Appellant and her pets live is difficult to articulate. Over and above the feces and urine in the house, the general living conditions with respect to the clutter, debris and the existence of items like open buckets of oil and paint cans are such that if the living conditions in this instance were not deemed to be ‘unsanitary’ then the word would have no legal meaning. While the Panel accepts that standards of cleanliness can differ between households and that in the case of the care of animals, there may be a reasonable argument to be made that the living conditions that are expected with respect to the housing of humans could be lessened even further when considering the living conditions of animals, there remains an objective point at which any reasonable assessment of the circumstances would accord with the terms ‘unsanitary’ or ‘filthy’ or ‘squalid’
93. In this case, based on the photographs provided by the Society and the consistent and compelling testimony of the Society’s witnesses in terms of what they experienced in the Appellant’s home, I find it unlikely that the word ‘squalid’ fully captures the conditions of the home for the reader of these reasons.

94. The definition of distress under section 1(2)(a) of the *PCAA* involves deprivation of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment. Regarding the issue of ventilation, ammonia levels noted by all of the witnesses for the Society, their resulting physical reactions to the ammonia, and the observations of Dr. Langelier in his medical assessments, all support a finding that given the amount of ammonia in the air at this property, it may be practically impossible to provide proper ventilation such that the animals living in this house are not in distress as required by the *PCAA*.
95. Finally, with respect to the definition of distress under section 1(2)(c) above which relates to abuse or neglect, given the living conditions described here, and regardless of the Appellant's apparent love and affection for these cats, the Panel finds that these cats have been neglected and abused and were therefore in distress within the meaning of the *PCAA* when they were seized. While the Appellant clearly considers herself to be a person who cares deeply about animals, the Panel finds that it is not possible to subject animals to these types of living conditions without it amounting to a type of abuse or neglect that will invariably cause distress in the animals over time.
96. For all of the above noted reasons and as stated above, the Panel has little difficulty concluding that that the three cats that are the subject of this appeal, were in distress at the time they were seized and taken into custody by the Society.

Return of the Cats

97. Having determined that the seizure of the cats was justified, the Panel turns now to the best interests of the cats, and whether their best interests are served by returning them to the Appellant or having them remain with the Society to dispose of at its discretion.
98. 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.
99. 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.
100. The evidence provided to this Panel with respect to the living conditions of the three cats that are the subject of this appeal in June of 2016 clearly demonstrates that no substantial change has occurred in those living conditions since the previous seizure of animals in June 2015. The house continues to be contaminated by feces and urine from the Appellant's pets as well as from rodents living in and around the property. The house continues to be filled with debris. Despite the Appellant's evidence to the contrary, there does not appear to have been any substantial efforts made to improve the cleanliness of the home. Even if those efforts were in fact made at some point

over the last year then, in the interim, the house has returned to a similar level of squalor as observed previously.

101. Dr. Langelier has provided his opinion that the residence will be significantly contaminated with fleas as well as the parasites leading to toxoplasmosis. He has further stated in his direct evidence that he fully believes, based on his assessment of the three cats, that their current health issues have arisen as a result of the Appellant's living conditions, and that a return of the three cats to those conditions would simply amount to returning them to an environment that will inevitably lead them back into distress. He has stated that he regrets not being able to retrieve the two additional cats that remained at the residence and that those animals should be seized as soon as possible.
102. The Appellant has not provided any compelling evidence of any substantive efforts that she has made or that she intends to make in order to deal with the squalid living conditions that were prevalent in 2015 and that continue to be prevalent at this time. She is of the belief that the issues with regards to her living conditions are being overstated, that her efforts to date have been sufficient and that similar efforts will be sufficient in the future. Furthermore, the Appellant made statements to the effect that as part of her *Charter* rights she is able to 'live as I please' and as such her living conditions should not be properly considered by this Panel. The Panel disagrees with the Appellant's submission in that regard for all of the forgoing reasons, but also note that insofar as she maintains this position it is unlikely that she will ever feel obliged to improve her living conditions. The Appellant downplays the deaths of animals which have arisen as a result of her living conditions and she gives unreasonable accounts of what she says she has done to provide proper care for her animals. The Appellant's evidence regarding her belief that a mother cat should provide the only care for kittens that are clearly in distress was particularly troubling as it suggests a callousness towards those animals which goes beyond the overall issues with the unhealthy environment. The results of that callousness were in evidence before the Panel with respect to the surrendered kittens, the undisputed evidence of which was that they were in terrible health and on the verge of death. These animals were clearly suffering to the point of death and beyond seeking the return of one kitten the Appellant did not express any concern or remorse for her conduct or lack thereof in dealing with these nine kittens.
103. The Appellant has acknowledged that due to her limited resources, she can only provide veterinary care for animals on a somewhat ad-hoc basis. She has further given evidence to the effect that insofar as these cats are semi-feral they will inevitably have fleas and other health issues and that she should not be expected to attend on every issue as it arises, rather she should only be expected to do what she can with her limited resources. However, the Appellant's position in this regard is undermined by her failure to have her animals spayed or neutered, and entirely ignores the issue that her living conditions are a direct cause of the health issues arising in her pets.
104. Given the overwhelming evidence before us, the Panel finds that there is no likelihood of any substantive improvement in the living conditions that led to the three cats to be in distress at the time of seizure and that the return of the three cats to those living conditions would inevitably lead to further distress in these cats, thereby requiring a further seizure.
105. In these circumstances, the Panel has little difficulty confirming the decision made by the Society to not return these cats to the care of the Appellant. It is our hope that this decision coupled with the previous decision of BCFIRB in August 2015 will cause some change in the Appellant's view of

her circumstances that will lead to improved living conditions for any animals in her care and for herself.

VIII. ORDER

106. 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).

107. It is our order that pursuant to section 20.6(b) of the *PCAA*, the Society in the Society's discretion is permitted to destroy, sell or otherwise dispose of the three cats that are the subject of this appeal.

108. As the Society has waived its claim for reasonable costs pursuant to s. 20 of the *PCAA*, there will be no order as to costs.

Dated at Victoria, British Columbia this 2nd day of September, 2016

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Christopher K. Wendell, Presiding Member