



May 16, 2014

File: PCAA/#14-03

DELIVERED BY EMAIL AND MAIL

Kari Simpson

Marcie Moriarty
Chief Prevention and Enforcement Officer
BC Society for the Prevention of Cruelty
to Animals
1245 East 7th Avenue
Vancouver BC V5T 1R1

Dear Mesdames:

NOTICE OF APPEAL FILED MAY 12, 2014 REGARDING THE DISPOSITION OF A DONKEY

On May 12, 2014, the BC Farm Industry Review Board (BCFIRB) received a Notice of Appeal filed by Kari Simpson seeking return of her donkey Amos, who she alleges has been unlawfully adopted/sold contrary to the *Prevention of Cruelty to Animals Act (PCAA)*.

The right of appeal to BCFIRB is limited under section 20.2 of the *PCAA* to circumstances in which the BC Society for the Prevention of Cruelty to Animals has been requested to review a decision of an authorized agent to take custody of an animal. This would be under section 10.1 (where an animal is abandoned) or section 11 (where an animal is in distress) or the costs to which a person is liable following a seizure. Where the Society renders a review decision (of its original decision to take an animal into custody) or fails to do so within 28 days, there is a right of appeal to BCFIRB. BCFIRB has no statutory jurisdiction to hear appeals from other decisions of the Society.

In this case, a special provincial constable seized a donkey owned by Ms. Simpson pursuant to section 11 of the *PCAA* as outlined in the Notice of Disposition dated March 27, 2014. Ms. Simpson requested a review of the decision to seize her donkey and the Society issued its review decision on April 22, 2014. Ms. Simpson filed an appeal of the April 22, 2014 review decision with BCFIRB on April 29, 2014.

Following a submission process, an appeal panel of BCFIRB issued its decision on May 2, 2014 which concluded that the appeal was filed out of time. The decision also advised that as this was a final decision, pursuant to section 57 of the *Administrative Tribunals Act*, an application for judicial review must be commenced within 60 days of the date of the decision being issued.

**British Columbia
Farm Industry Review Board**

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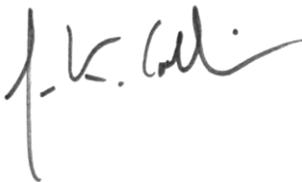
I would also note that the Notice of Appeal was not accompanied by the filing fee of \$100 nor has that filing fee been received any time after April 29, 2014. In order for an appeal to be perfected, it not only needs to be filed in time but the filing fee needs to be received within a reasonable period, neither occurred in that instance.

In her May 12, 2014 Notice of Appeal, Ms. Simpson indicates that this appeal stems from her review requested April 3, 2014, which request resulted in the Society's April 22, 2014 review decision. A review of her submission filed with the May 12 Notice of Appeal confirms that Ms. Simpson is alleging deficiencies in the April 22, 2014 review decision in that it failed to affirm the notice that the animal will be destroyed, sold or otherwise disposed of, as required by s. 20.2(4)(b) of the *PCAA*. As such, she alleges that it was not a "lawful decision".

Given that the May 12, 2014 Notice of Appeal is in substance an appeal of the April 22, 2014 review decision, and given that a panel of BCFIRB has already ruled that the April 29 Notice of Appeal filed in respect of that same decision was out of time, BCFIRB has no jurisdiction to hear an appeal which has been filed even further out of time. There is no provision under the *PCAA* to extend the time to file appeals. Accordingly, I will be returning the filing fee received yesterday to Ms. Simpson.

Finally, I note that in May 9, 2014 correspondence from Ms. Simpson to Craig Daniell, Chief Executive Officer of the Society, copied to BCFIRB, Ms. Simpson appears to be requesting a review of the decision to adopt out her donkey as opposed to the initial decision to take the donkey into custody. I do not know whether this is a matter which the Society can review, however I wish to point out that BCFIRB does not have the jurisdiction to hear an appeal from a decision of the Society beyond those expressly set out in section 20.2 of the *PCAA* and identified above.

Yours truly,

A handwritten signature in black ink, appearing to read "J. K. Collins". The signature is written in a cursive style with a long, sweeping underline.

Jim Collins
Executive Director