

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
TWO GOATS

BETWEEN:

LEILA MARTIN

APPELLANT

AND:

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia Farm Industry
Review Board:

David Zirnhelt, Presiding Member

For the Appellant:

Leila Martin

For the Respondent:

Andrea Greenwood, Counsel

Date of Hearing:

April 11, 2023

Location of Hearing:

Teleconference

A. 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*) related to the seizure of two goats (the *Animals*) from the Appellant, Leila Martin at her residence located in Procter, BC (the *Property*).
2. The Appellant is appealing the March 7, 2023, review decision issued under s. 20.2(4)(b) of the *PCAA* by Marcie Moriarty, Chief of Protection and Outreach Services, of the British Columbia Society for the Prevention of Cruelty to Animals (the *Society*).
3. Section 20.6 of the *PCAA* permits the British Columbia Farm Industry Review Board (BCFIRB), on hearing an appeal with respect to animals, to require the *Society* to return the animals to their owner with or without conditions or to permit the *Society*, in its discretion to destroy, sell or otherwise dispose of the animals. The Appellant in this case is seeking the return of the *Animals*.
4. On April 11, 2023, a BCFIRB hearing panel (the *Panel*) held a hearing via Teleconference. The hearing was recorded.
5. The Appellant was not represented by counsel. The Appellant gave evidence on her own behalf and called three witnesses, S.B., M.M., and T.Z.
6. The *Society* was represented by counsel and called three witnesses, Special Provincial Constable (SPC) Isabel Menzel, Animal Protection Officer (APO) Adriana Snashall, and Dr. JoAnna Tronson, Doctor of Veterinary Medicine (DVM).

B. Decision Summary

7. The *Panel* finds that the *Animals* were in distress as defined in the *PCAA* at the time of seizure. The *Panel* further finds that the *Animals* would be returned to circumstances that would lead to further distress if they were placed back in the Appellant's care. As such, the *Society* is permitted in its discretion to destroy, sell or otherwise dispose of the *Animals*. The Appellant is ordered to pay the costs claimed by the *Society* in the amount of \$10,017.00.

C. Preliminary Matters

8. The *Society* applied pursuant to Rule 5 (21-25) of the *PCCA, Rules of Practice and Procedure* for a summons to obtain medical records of the Appellant. The application was dismissed by the *Panel* on the basis that hearsay statements made to medical staff would not be necessary or reliable evidence with respect to the issues under appeal. The interim decision letter was issued March 23, 2023 and was provided to all of the parties.

D. Material Admitted on this Appeal

9. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-12 and is attached as Appendix A to this decision.

E. History Leading to Seizure of the Animals and the Day of Seizure

10. On November 2, 2022, the Society received a call of concern regarding three goats at the Property. The complainant alleged that the Appellant was attempting to castrate the male goat in an inappropriate manner. The complainant also expressed concerns regarding the shelter provided to the goats and stated that the two female goats were pregnant.
11. Later that same day, APO Snashall attended the Property and met with the Appellant. On arrival, she observed three goats identified as Jack, Lenoria (“Babs” in the Society’s reports), and Daylight (“Ramsey” in the Society’s reports). Jack was observed with a red string tied around his scrotum. The Appellant claimed this was not meant to castrate him but to “restrict blood flow and curb his hormones”. APO Snashall asked the Appellant to remove the string immediately and to keep the male goat separate from the females.
12. APO Snashall observed the shelter provided to the Animals and noted that it was of an adequate size but that it had an accumulation of feces inside. She also observed two small water bowls, partially full of water, and recommended to the Appellant that she should provide larger buckets to ensure the Animals had access to clean water at all times. It was agreed that APO Snashall could return to the Property to provide the Appellant with a copy of the Goat Code of Practice (the “Code of Practice”), since the Appellant did not have a copy.
13. APO Snashall returned to the Property on November 7, 2022. She provided the Appellant with a copy of the Code of Practice and asked to inspect the Property. APO Snashall again observed a bowl of water for the Animals. However, this time the water in the bowl was frozen. APO Snashall advised the Appellant again that clean water must be provided at all times. The Appellant disagreed and stated her belief that snow and one cup of warm water each day was sufficient.
14. APO Snashall questioned the Appellant regarding the feed and supplements that she provided to the Animals. The Appellant advised that she provided Kosher salt and dried dandelions to her goats, no typical goat minerals were present.
15. APO Snashall observed the Animals’ shelter and noted there was not enough bedding for the Animals and there remained a large amount of feces present. APO Snashall further observed the male goat walk over a bin of glass containers and advised the Appellant that she needed to tidy up the areas accessible to the

Animals, as the glass could shatter easily in the cold weather causing injury to the Animals, and there were other injurious objects present.

16. APO Snashall issued BCSPCA Notice B23112 to the Appellant and provided the Appellant with one week to clean up the unsanitary conditions and to ensure that she complied with all recommendations in the Code of Practice, including among other recommendations, ensuring the Animals had access to clean, dry bedding at all times.
17. On November 16, 2022 APO Snashall returned to recheck compliance with the Notice. On arrival APO Snashall observed a man working on the Animals' shelter. APO Snashall again noted issues with the provision of water to the Animals and the Appellant argued that the Code of Practice only recommended providing water to goats once per day. APO Snashall clarified this point with the Appellant, as the wording in the Code of Practice was somewhat confusing, and advised the Appellant that water was required to be provided at all times.
18. On January 20, 2023, the Society received a further complaint regarding the Animals. The complainant alleged one of the Animals had been unlawfully killed by the Appellant, that the Appellant had forced the goat to drink linseed oil, and that she had then skinned the goat with the intention of eating it and making clothing from it's hide.
19. APO Snashall attended the Property on February 2, 2023 in response to the new complaint. The Appellant explained to APO Snashall that she had found her male goat with a broken neck and unable to move. She noted that after discovering the goat, she left it for approximately two hours to clear her head. She stated that she had considered chopping the goat's head off, but instead had poured olive oil down its throat. The Appellant claimed that the goat had coughed once, had gone limp, and after 30 seconds his eyes had gone blank. However, the Appellant also stated that the goat continued breathing for another 2 hours before it finally passed. The Appellant confirmed she had not called a veterinarian to obtain advice regarding this goat.
20. While attending at the Property, APO Snashall observed the two remaining female goats. These goats appeared to be pregnant. APO Snashall observed the female goats to be searching for food and did not see any forage present for the goats to eat. There was otherwise no food or water accessible to the goats, as the metal frying pan used as a water dish was frozen over and the hay the Appellant had shown APO Snashall was not accessible.
21. With respect to the Animals' shelter, APO Snashall noted the front of the storage area on the Property was heavily covered in feces as well as the interior of the Animals' shelter. No straw bedding was provided in the shelter or elsewhere. The Appellant advised APO Snashall that she used cushions and blankets as bedding and APO Snashall confirmed these would not be adequate or appropriate.

APO Snashall noted a number of injurious objects, and was concerned about the Animals trying to climb the fence to access the feed, especially as the deceased male goat was suspected by the Appellant to have fallen and broken his neck.

22. APO Snashall issued BCSPCA Notice B40780 and the Appellant was directed to provide water (1hr), to provide sufficient food (ongoing), to provide veterinary care (ongoing), to clean the living area (24hrs) and to remove injurious objects (3 days). The Appellant was advised that the notice needed to be complied with within the specified timeframes.
23. On February 6, 2023, APO Snashall received information that the Appellant had been hospitalized on February 3, 2023. Prior to being hospitalized, the Appellant had dismantled the Animals' shelter, rendering it inadequate. Additional concerns were noted for the two female goats remaining on the Property, as well as their expected offspring, including a lack of consistent care, a lack of consistent provision of water, and dangerous objects in the Animals' environment. SPC Menzel became involved in the investigation and applied for a warrant due to concerns noted above.

F. Warrant Execution

24. The warrant was executed on February 7, 2023 with SPC Menzel, APO Snashall, and a RCMP constable in attendance. The Appellant was not present due to her hospitalization. SPC Menzel noted that the Animals did not have access to adequate food, their living area was unsanitary, they had no access to bedding, and there were hazardous materials such as scrap metal, piled up wood, and nails sticking out of the ground.
25. The Animals were determined to be in distress and were seized by the Society. SPC Menzel went inside the dwelling and observed unsanitary conditions, jars containing frozen urine, omega 3 capsules, and a bag strung up that appeared to have blood stains on it. SPC Menzel and APO Snashall also found the body of the deceased male goat on a hiking trail near the Property. The goat's spine appeared to be intact and the goat had been skinned.
26. Following the seizure, the Animals were examined by a veterinarian who made the following observations:

Babs (right ear is white) #564960 had overgrown hooves and the left front medial hoof is split. This should be cleaned every 12 hours with betadine and monitored for any abnormal discharge as the hoof grows out. We were unable to achieve images with our small animal ultrasound, but on palpation of her abdomen there is at least one fetus that is bony. It is suspected that she is in third trimester. She is also starting to develop her udder. Udder develop and vulva development should be monitored daily for progression in order to monitor timing of parturition. Parturition to be expected in <30 days Ramsay (both ears black) #564961 Uterus Fetuses present - On palpation can feel bony structures - suspect final trimester;

unable to get an ultrasound. Mammary glands Not lactating - Not filling yet.
Parturition to be expected in <50 days

G. Review Decision

27. On March 7, 2023, Ms. Moriarty issued her review decision in which she outlined her reasons for not returning the Animals to the Appellant (the “Review Decision”). She reviewed the Inspection Follow-up Details (IFD) – February 7, 2023, the Information to Obtain Warrant (ITO) & Attachments – February 7, 2023, the Veterinarian Care Instructions for the Goats – February 9, 2023 and email submissions sent by the appellant. Ms. Moriarty was satisfied, based on the evidence, that the SPC reasonably formed the opinion that the Animals were in distress, as defined in section 1(2) of the *PCAA*, and her action to take custody of the Animals to relieve the distress was appropriate.

28. With respect to the matter of whether the Animals should be returned to the Appellant the Review Decision states:

Ultimately, I need to be confident that if the Animals were returned to you, they would remain in a state free from distress. Unfortunately, I am unable to make this conclusion and, based upon the information and documents in this file, I believe it is very likely they would return to similar circumstances which led to their removal. This belief is supported by the fact that you appear unwilling or unable to fully appreciate and understand the reasons why the Animals were in distress while in your care. Further, your flippant attitude towards the manner in which the male goat died leaves me with serious concerns regarding your ability to seek appropriate veterinarian treatment and to recognize significant suffering in the animals in your care. After considering all of the above, I simply cannot conclude it would be in the best interests of the Animals to be returned to you and I will not be ordering their return.

H. Key Facts and Evidence

29. In an appeal under the *PCAA*, the Panel must determine whether the Animals were in distress when seized and if they should be returned to the Appellant. Below is a summary of the relevant and material facts and evidence based on the parties’ written submissions and the evidence presented during the hearing. Although the Panel has fully considered all the facts and evidence in this appeal, the Panel refers only to the facts and evidence it considers necessary to explain its reasoning in this decision.

30. During the course of the hearing the Appellant made repeated accusations of bias against some of the officers of the Society involved in the investigation and seizure of the Animals. The Panel was live to the concerns raised by the Appellant and has based its evidentiary findings as set out below on an objective and comprehensive review of all of the materials presented and all of the evidence provided by each of the witnesses at the hearing of this appeal.

Appellant Testimony

31. The Appellant gave direct evidence with respect to her care of the Animals as follows:
- The Animals only recently escaped the Property after she was hospitalized. While she was able to reside at the Property there were no issues with the Animals escaping. She has sought to maintain an enriched environment for the Animals. She noted that she kept logs, stumps, a picnic table, and a swing for the Animals to interact with. She acknowledged that the Society had expressed concerns with respect to the Animals playing with the swing and that she had relocated the swing to account for those concerns.
 - She maintains a medicine cabinet with among other things rubbing alcohol for cleaning the Animals' feet when she trims their hooves every six months. She also uses as preventative care such things as garlic oil and black pine oil. Three bags of goat feed are kept in the freezer which has household items stacked on top because the Animals were getting into the feed.
 - She noted that the goats were always in good body condition score, with a rating of 4/10 which was on the lean side of good.
 - At the time of the Society's visits to the Property, the Appellant noted that she had hay, grain, dried apples, dried dandelions and seeds for the Animals to eat.
 - After the seizure of the Animals, the Appellant stated that her mother had purchased more food for the Animals and was helping her establish a client relationship with a veterinarian.
 - She had sought to demonstrate a "consistent responsiveness to care" when the Society visited. She stated that she would get a goat drinking water heater for next winter. The Appellant went through the pictures included as exhibits and explained the various features and some of the changes and repairs made to the goat pen, pastures and shelters. She noted that the bedding for the Animals was not straw, rather it consisted of pads of rubberized and other material. She showed where she was attempting to train the goats to defecate and urinate in order to keep the pens and shelters cleaner.
 - She noted that she had relied on the Story's Guide, 5th edition and David Mackenzie's Goat Husbandry, 4th edition, 1981, revised and edited by Jean Laing with respect to caring for the Animals. She also noted David Hoffman's Holistic Herbal guide which is a guide for human, rather than goat, care. Further, she noted that she had done some Internet searches on tannins (from woody debris) and gut health in relationship to milk production in goats. The Appellant noted that the goat code recognizes that goats are

- able to develop relationships with individual people and that these relationships develop and strengthen over time. She noted that since she had been able to bond with the Animals and had spent significant time with them, it would be a benefits to the Animals to continue to be with her.
- The Appellant emphasized that she had discussed the diet she was giving the Animals with the “vet in Salmo” and that the veterinarian told her that there should be no problem with the Animals’ diet. She also sought advice from the Kootenay Boundary Farm Advisor who recommended the provincial lab in Abbotsford for any livestock testing. The Appellant maintained that the Animals had a very good diet. She showed pictures of the stored loose hay, baled hay, herbal supplements, and enrichment features.
 - The Appellant said she knew she had to have a relationship with a veterinarian before the female goats gave birth. However, upon cross examination, the Appellant said she would take the Animals to the veterinarian if they showed signs of illness, but not as a regular preventative measure. She noted that as a preventative measure and in preparation for birthing the pregnant females were given raspberry leaf as a supplement.
 - Regarding veterinary costs, the Appellant explained that her mother gave the veterinarian her credit card number in case their services were needed. The Appellant noted that the Salmo veterinarian comes to the community once a month and she needs to book a place in the veterinarian’s itinerary in order to develop a “ patient-client” relationship.
 - Upon questioning by the Respondent about her taking a month and a half long walk so the goats could do some open grazing for deficiencies in their diet, the Appellant said she would do it again, despite the fact that during the last walk, the goats did get on the road. She suggested that she would seek permission for the goats to graze on private property.

Cross Examination of the Appellant

32. Under cross examination, the Appellant acknowledged that with respect to euthanizing the male goat (Jack) she didn’t check with the veterinarian about giving him “olive oil” as a remedy for his partial paralysis or possible hypothermia, but now she had learned to call someone more qualified than herself when difficult medical situations arose. She stated that she was trying to heal the goat, not kill him. She noted that she might have to put him down “with a blow to the head”. She further noted that she had made him a herbal tea blend to calm him, before she treated him or tried to euthanize him.
33. The Appellant was questioned as to why she hadn’t sought veterinary care for a dog that she had owned prior to the goats, even though the dog was known to have lumps on his stomach. It was suggested that the Appellant had taken the dog

to a veterinarian but had not treated him as his disease advanced. The Appellant responded, "I had established a relationship with a veterinarian to do a biopsy of lumps in his belly. The biopsy said they didn't need to be removed."

34. Regarding at least one of the books used by the Appellant, Goat Husbandry by David Mackenzie, it was suggested to the Appellant that the more recent versions of that text incorporated "massive change" to the goat-keeping world since the publication of the edition on which the Appellant relied. The Appellant was not aware of these changes.
35. The Appellant admitted that it wasn't until after the Feb 2, 2023 visit by the Society that she sought to establish a relationship with a veterinarian even though Jack had died on December 18, 2022. She noted that if she was required to do so then she would get check ups for the Animals.
36. The Appellant admitted that she didn't have any training in hoof trimming or farrier work, and that when one of the Animals had injured its hoof either by slamming it in a car door or in the shed door, the Appellant did not call a veterinarian.
37. The Appellant noted that she would be open to a condition of return of the Animals that a shed be finished to provide proper shelter for the Animals and that the Property be inspected for hazards by a knowledgeable person.
38. The Appellant stated that her only income is social assistance (\$942 per month), but that she hoped that having her own goat milk would save money by displacing the money that she would otherwise spend on dairy products. She noted that she also does some house and garden work.
39. The Appellant confirmed that if the Animals were returned to her care she would continue to do her own hoof work (farrier) instead of getting a trained person to provide that service.

Appellant Witnesses:

S.B

40. S.B. lived in the same house as the Appellant, but had separate quarters from the Appellant.
41. S.B. testified that she has had goats in the past and has studied agriculture at the University of the Fraser Valley.
42. S.B. said that the Appellant was "touchy", defensive and argumentative about the topic of poisonous mushrooms being on the Property, even though the Appellant stored the mushrooms that she had picked high up and out of reach. Jack had tried to eat boiled poisonous mushrooms that had been prepared by the Appellant so

the Appellant had put them up high in the carport. S.B. stated that the mushrooms were growing in the yard on the Property and that the Appellant ate some and got very sick. S.B. was concerned that the Animals could also get sick if they ingested the wild mushrooms.

43. When questioned about how Jack died, S.B. stated that she had first thought that he had starved to death because the Appellant had not been around for a week prior to Jack's death.
44. S.B. stated that she and some other neighbors have had concerns about the Animals. She noted that the goats are pushy, they buck and they have horns and they can get out onto other people's property. She testified that the Appellant has yelled at other neighbors that have complained regarding the Animals behavior and that the other neighbors are afraid of her. There have also been concerns amongst the neighbors concerning the smell of the Property and its status as a fire hazard.
45. S.B. stated that there are concerns in the community about the Appellant's temperament. She noted that when she is asked by the Appellant to look after the Animals she is concerned that something might happen to them and she will be blamed by the Appellant.
46. S.B. explained that she was concerned with respect to the attempted castration of the male goat and with respect to how that goat died so she made a complaint to the Society. She also felt the Appellant was dismissive about some of the dangers in the yard of the Property, she noted that she had seen Jack climbing on something in the yard and that she had warned the Appellant about her concerns. S.B. also said she had suggested a necropsy be done to find out the cause of Jack's death. That investigation would be informative for the care of other animals on the Property.
47. The Appellant admitted to S.B. that she had panicked when she discovered that Jack was injured and that she felt that she had to do something. S.B. testified that the Appellant said that she had done the right thing and that administering cooking oil to euthanize the goat was her right as an animal owner. She noted that the Appellant seemed to feel that the issue was more about her rights and not the animal's welfare.

M.M. (Appellant's Mother)

48. M.M. testified that she has paid for appropriate amount of hay, straw, oats salt blocks in the past and will continue to do so if the Animals are returned. She further stated that she will cover the costs of emergency veterinary care and annual veterinary examinations.

49. M.M. stated that the Appellant was in bed a lot of January and February and was hospitalized. She claimed that the hospitalization may have been as a result of the stress the Appellant felt from the notices issued by the Society.
50. M.M. testified that she had arranged for a handy man to fix the basement door which was hazardous to goats and people and to come help with the cleanup. She noted that S.B. was supposed to look after the goats while that work was being completed.
51. M.M. testified that the Appellant's main concern was caring for the Animals. She noted that she did not believe that the Appellant had left the Animals without care and that she did not agree with the Society's position that the enrichment toys in the Appellant's yard were hazardous.
52. M.M. acknowledged that Jack's death was traumatic for the Appellant and that a friend of the Appellant, T.Z. had tried to get help from a veterinary technician neighbour, because the nearest veterinarian was two and a half hours away.
53. M.M. agreed that during the first year that the Appellant had lived at on the Property the Appellant let the Animals out. However she further testified that the Appellant now realizes that the Animals need to be kept on the Property at all times.
54. M.M. testified that she and the Appellant's father came up four times to help clean up the Property because the Appellant's neighbours were going to call the bylaw officers. They had the yard waste and debris removed from the Property but there might have been some boards with nails in them that were missed.

T. Z.

55. T.Z. is the a neighbour to the Appellant.
56. T.Z. testified that he thought that the Appellant was absent for possibly three days in late November or early December, and not a week as suggested by S.B. He noted that he had helped the Appellant with cleaning up in the hayloft and the surrounding area.
57. T.Z. noted that on the day that Jack died he was at the Property from around 10:00 pm when Jake was on his side covered with blankets until he went home to use the internet and to message the neighbour who was trained as a veterinary tech. T.Z. observed that Jake was occasionally making a goat noise (baaa...) and "bellowing" sometimes.
58. T.Z. said he told the Appellant that she should call a veterinarian, even though it was close to two hours to get there from Salmo. He also suggested a phone call discussion with the veterinarian, but the Appellant refused. T.Z. testified that the

Appellant suggested that he should go home immediately and research Jack's symptoms.

59. T.Z. stated that he didn't call the veterinary technician neighbour, but he did text her. He further stated that he tried to call the Appellant back but she didn't answer, perhaps because she was out with the goat, and that he fell asleep around midnight while waiting for the veterinary technician to call back.
60. T.Z. testified that to the best of his knowledge Jack died around 2:30 or 3:00 am, but that he was not there at the time.

Respondent Witnesses:

Animal Protection Officer (APO) Adriana Snashall

61. APO Snashall testified that she had worked as an animal protection officer for the Society for approximately a year and a half, and that she had spent the prior 22 years in animals control positions with two different municipalities as well as a regional district. She further noted that she had experience working on a friend's dairy farm, including caring for goats and their kids.
62. APO Snashall stated that the Society had first received complaints with respect to the Appellant's care for the Animals on August 26, 2021. At that time Officer Cuthbert attended and saw two goats tied to a tree with no access to water, possibly at a neighbour's place. The officer left a Notice requiring that the Animals be provided access to water at all times, sufficient food, clean and disinfected food and water containers, and proper shelter from heat, cold and dampness. The Animals appeared to be healthy at that time.
63. On September 12, 2022 a new complaint was made to the Society regarding a dead dog on the Property.
64. On November 16, 2022 APO Snashall visited the Property with SPC Menzel. They found hazardous materials still in the yard. They noted that adequate bedding and water was present but that the table with the water was too high for the Animals to access. The Officers discussed the Goat Care Code of Conduct with the Appellant and clarified that water was to be "available at all times" for the Animals.
65. On December 2, 2022 two complaints were made to the Society. The first complaint was with respect to the improper "castration" of the male goat (Jack) by the placement of an improper band or string around the goat's scrotum, with no pain control provided. The Appellant advised the Society that the binding of the goat's scrotum was not for castration purposes but rather to curb the goat's hormones since he was harassing the pregnant females. APO Snashall required that the Appellant remove the binding material immediately and advised the Appellant to simply keep the male goat in a separate pen. The complainant was

concerned because the females seemed to be present and that the owner might try to inappropriately castrate any male kids of the goats. The second complaint was concerning the junk around the premises that might injure the goats

66. APO Snashall noted in her evidence that there were no salt and minerals available to the Animals that day.
67. On January 20, 2023, the Society received a complaint that the male goat had been killed by forcing it to drink "linseed oil" and that the Appellant intended to eat the dead goat.
68. On February 2, 2023 APO Snashall attended at the Property in response to this complaint and the Appellant told her that the goat may have fallen off something and was injured. At some point while attending to the injured goat the Appellant became overwhelmed and went for a walk for approximately 2 hours. Upon her return she was convinced that the goat likely wouldn't recover. The Appellant then attempted to euthanize the goat by administering some form of cooking oil to the goat in a large dose which eventually caused the goat's death after several hours.
69. APO Snashall testified that she expressed her concerns to the Appellant with respect to the failure to get advice from a veterinarian and the inappropriate method used to euthanize the goat. The Appellant stated that she didn't own a gun to euthanize the goat more quickly.
70. APO Snashall testified that she recalled feeling stunned by the Appellant's lack of remorse for the goat's death.
71. APO Snashall testified that the idea of building relationships with veterinarians seemed like a new idea to the Appellant. She gave the Appellant some veterinary contacts and talked about "proactive relationships" and her concerns about how the Appellant had killed Jack and how she would handle birthing difficulties.
72. APO Snashall stated that her main concerns with respect to returning the Animals to the Appellants care were the Appellant's dismissive attitude, her apparent lack of common sense, her unwillingness to engage proactively with veterinarians or accept information from the Society, and the generally unsafe and unsanitary conditions in which she kept the Animals. Most importantly, the manner in which the Appellant euthanized Jack and her inability to perceive his unnecessary suffering demonstrated a callousness and disregard that would need to be addressed to be resolved.
73. APO Snashall stated that she "had severe hesitation on (the Appellant's) ability to care for potentially six goats".

Cross examination of APO Snashall

74. APO Snashall confirmed that Officer Cuthbert noted no overall concerns with the Animals when visiting after the first complaint.
75. APO Snashall conceded that Appellant could place two fingers under the string on the goat's scrotum.
76. Regarding the complaint about the accumulated feces and urine, APO Snashall confirmed that the Appellant had told her that she cleaned the shelter once a week.

Dr. JoAnna Tronson, DVM

77. Dr. Tronson was accepted as an expert witness as a Doctor of Veterinary Medicine. She practices with the Shuswap Veterinary clinic which sees "all kinds of large animals from cattle and horses to pigs, cows, chickens and sheep, goats, etcetera."
78. Dr. Tronson stated that she had reviewed the intake veterinarian report of February 9, 2023 and had submitted a report dated February 23, 2023 after she had taken over care of the Animals.
79. The three main concerns identified in the February 23 report were: lice, an old hoof injury, and the pregnancies.
80. The recommendation for lice was to treat with Ivomec. One goat (Babs) had a fecal egg count for internal parasites which was also treated with Ivomec especially because of the late pregnancy when the immune system would be taxed.
81. Babs also had a crack in her hoof running from the coronet band to the ground. It was healing but required being kept dry and free from contamination with feces or mud.
82. With respect to herbal remedies for parasites, Dr. Tronson noted that there is a pyrethrum made from the chrysanthemum plant however the application of that commercial product for goats is illegal.
83. The Appellant had used essential pine oil to treat the split hoof, but Dr. Tronson stated that it should have been treated like a wound and since the essential oil is not antiseptic, it was not likely to help with the healing process.
84. Dr. Tronson testified that the Appellant's use of a hunting knife to trim the Animals' feet was inappropriate because the knife could slip if the Animals struggled and

might thereby inadvertently injure the foot. A resulting cut the size of a pin prick could become infected and form an abscess.

85. Dr. Tronson noted that taking the Animals on hikes along backcountry roads might be a cause for concern as there might be harmful toxic vegetation and debris thrown out of cars into the ditches that could be consumed by the Animals. The owner would have to know the plants growing in the area that might be consumed by the Animals. The Animals could also create a hazard for themselves and for passing motorists if they were not walked on leashes, which the Appellant acknowledged had not been the case.
86. Dr. Tronson stated that cutting and carrying appropriate forage from private or public land might be a better way to accomplish any need for diversity of forage. She further noted that in addition to forage the Animals also needed mineral and salt licks and constant access to water.
87. Dr. Tronson noted that in late pregnancy the food provided to the Animals must be of a high quality because there is less room in the animal for large quantities of food. She suggested that supplementing with a goat type concentrate meal would be appropriate and she noted that an inadequate diet could lead to pregnancy toxemia.
88. With respect to the photographs showing the brush pile that was available to the Animals, Dr. Tronson stated that 50% of a goat's diet can be brush and woody perennials (roses, saplings, briars, brambles, honeysuckles and you deciduous trees) but not the course brush and branches seen in the photographs. She noted that appropriate quality feed needs to be provided in the approximate amount of 3% of the body weight of the animal—somewhere between four and six pounds of hay per day and that one normal square bale would feed two goats for five days.
89. Dr. Tronson stated that goats need regular wellness checkups with a veterinarian but not as often as herd health visits which were required for larger commercial farms. Dr. Tronson suggested an annual checkup for the relationship between veterinarian and client to mature. In a mature relationship, the veterinarian could provide advice and public health insights on the suitability of milk and meat from the Animals and provide advice on nutritional needs of the Animals during pregnancy.
90. Dr. Tronson reviewed pictures of the Property and identified numerous hazards for the Animals including an open space with a ladder and no top on it which a goat might fall into. She noted other pictures showing loose insulation and plastic, a wet floor in the shelter, and a swing cushion which was soiled with feces. Several pictures showed boards with nails and other hardware sticking out. Other pictures show cannabis foliage which could have been consumed by the Animals.

91. With respect to appropriate methods of euthanasia, Dr. Tronson said the best methods involved a death that was quick and free from stress and pain. In an emergency situation euthanasia would begin with sedation which would free the patient from pain and stress. When the patient and the client were ready, usually a barbiturate is injected, stopping the heart. Another, quicker option, would be to use a captive bolt gun (a piston fired with gunpowder). Alternatively a stun gun could be used followed by halal or kosher slaughter where the animal bleeds to death without regaining consciousness.
92. Regarding the circumstances leading to the death of the Appellant's male goat, she stated "I interpret in the documents we all see that this goat died because of oil aspiration. Oil has gone into the lungs...following that...drowning with oil, and presumably the functional oxygen exchange was compromised."
93. She commented further that, "It is not an acceptable method of euthanasia. It is neither quick, not free from pain." The window for the death was four to seven hours and she noted that "...there's lots that could be done in seven hours."
94. Dr. Tronson testified that there was an exhaustive list of things that could have been going on with the goat and that a physical exam might have determined a cause of the symptoms before the goat's death.
95. Dr. Tronson stated that the approach to goat health in the reference materials the Appellant was using was fine except that the materials were old and there is always new science that informs proper care for animals. Dr. Tronson noted that given the problems with the care previously provided to the Animals she would be concerned regarding any new issues arising, including issues surrounding the births of new goats, if the Animals were returned to the Appellant.

Cross examination of Dr. Tronson

96. Dr. Tronson was asked whether she could identify that an animal was in critical distress based on the description of the animal at any point in time, to which she responded:

When the oil was poured down the goats throat. At this point in time we do have an animal that is certainly in peril and one that is certainly going to die, whether that's immediately or unfortunately in this case later, and possible even later. Still, the literature on oil aspiration and subsequent pneumonias is really discouraging as well...The goat needed immediate help after that.
97. Dr. Tronson confirmed that the Animals had parasites before the seizure, but that the population of parasites could have exploded when the Animals were taken into the Society's care. She noted that the Animals' body condition score was on the lean side of ideal. She disputed that feeding forage and branches would help to control the parasite populations in the Animals.

Special Provincial Constable (SPC) Isabel Menzel

98. SPC Menzel noted that she had concerns with respect to the Appellant struggling with practical decision-making when it came to her Animals. SPC Menzel stated:

The manner in which the goat was killed that Miss Martin clearly executed extremely poor judgments in the manner of the euthanasia. It was evident that the animal was subjected to extreme suffering due to the inhumane manner in which it was killed. So I felt the other animals on the property were in danger of abuse as well. I observed the goats in the front yard at the time. They did have water available. I spoke to Shelly, who's looking after them, and she expressed that she didn't really want to be looking after them. But it's not that she was pressured to do so. I noticed there was a buildup of feces in the goat living area. The shelter didn't have any adequate bedding or any bedding at all, which is recommended in the code. I noticed a lot of hazards: different materials, like nails sticking out of the ground. And I noticed that what appeared to be marijuana on the ground. There also was evidence of neglect, unsanitary conditions, and inadequate bedding in the shelter.

99. SPC Menzel testified that the Appellant's neighbours also had numerous concerns. SPC Menzel reiterated the concern that the Appellant "will continue to not follow the laws and regulations related to animal care and welfare... And that her animals are likely to fall back into stress and potentially be subjected to extreme animal cruelty again."

Cross Examination of SPC Menzel

100. The cross examined SPC Menzel on many of the allegations, including a lack of food, to which SPC Menzel replied:

I would say that the lack of food was my small concerns, so we have ...the hazardous conditions and the unsanitary conditions. Those were the main reasons and that had grounds to believe again that they were not getting consistent water.

Closing Submissions

Appellant

101. The Appellant noted that the Animals always had food and that out of the seven visits made by the Society to the Property, there was only one instance in which there was no water present. She noted that the Animals had a good body condition score and that her mother was committed to continuing to provide her with support including financial support for veterinary costs. She further noted that with her mother's support she would have the financial means to provide suitable food including forage from a large browsing pile.
102. The Appellant disputed Dr. Tronson's evidence that it would have taken Jack 7 hours to die as a result of being forced to ingest cooking oil. The Appellant

reiterated her evidence that the process from ingestion to death was closer to 4 hours.

103. The Appellant noted that she cares deeply for the Animals and has responded to the Society's concerns. She has cleaned up her Property and has provided enrichment objects to increase the Animals wellbeing. She stated that she was committed to ensuring that water was always present if the Animals were returned to her care.
104. The Appellant stated that when she was hospitalized her first concern was for the care of the goats. She noted that when she misses the bus she makes sure someone feeds goats and puts them inside.
105. The Appellant noted that her dog had died because he was old and had tumours in his belly and not because she couldn't afford veterinary care. She stated that she would have paid to have him put down, but that he had died before that could occur.
106. The Appellant stated that she had resolved all of the particular hazards and concerns that the Society had identified with her Property.
107. With respect to costs, the Appellant stated that she was not opposed to paying the costs incurred by the Society to keep and treat the Animals, but that the seizure was unnecessary. She disputed some of the costs including the treatment for caseous lymphadenitis (bacterial disease of chronic suppurative lymphadenitis in sheep and goats), goat walking costs and nursing the baby goats.

Society

108. Counsel for the Society submitted that the Animals were in distress at the time of removal and that the Appellant's efforts after the seizure to clean up the Property and to make shelter improvements is an admission by the Appellant that the Animals were in distress. Counsel noted that three witnesses (S.B., Dr. Tronson and SPC Menzel) all agreed that the Property was not suitable and that there were multiple hazards. She further noted that while there was water at the Property, it was not accessible by the Animals and was insufficient in quantity.
109. The Appellant does things that are questionable and don't seem to be in line with common sense and then argues with the Society's officers when they try to explain their reasoning behind the suggestions. Similarly, she chose to argue with Dr. Tronson, rather than accepting the DVM's evidence as an opportunity to learn.
110. Counsel submitted that the Appellant unreasonably relies on a code for goat care from the 1980s that has not been updated, and even then engages in conduct outside of that code like cutting her goat's hooves with a hunting knife which could easily damage a hoof and injure the animal.

111. Counsel submitted that there are different stories about exactly what happened around the death of the goat, Jack, but the fact is that that he was seriously ill, the Appellant failed to call a veterinarian, and instead administered some form of cooking oil which caused the animal to suffer before it died. The entire incident demonstrates the Appellant's inability to make reasonable decisions when problems arise.
112. On costs, Counsel submitted that the Societies costs are well documented totalling \$10,017.00. This included costs of care provided by the Society and the costs of the other care provider. Counsel acknowledged that the costs were high because one of the kid goats required bottle feeding and socialization because the mother rejected it. She added that the Appellant has benefitted from the veterinary care costs that the Society has paid.

Reply by Appellant

113. The Appellant submitted that Jack was in critical distress before he was given oil and that lethargy and tremors were not an accurate description of his symptoms. Rather he was having uncontrollable jerking and spasming in his neck. His legs were rigid, stiff and jerking. He was in critical distress and needed "to be finalized". He died almost as soon as he was given the oil, therefore he was not allowed to suffer for hours.
114. The Appellant acknowledged that she was in shock and panicked, but submitted that her primary concern was for the animal and relieving his suffering. She further acknowledged that she had initially wanted to use him for meat since that was why he was kept after he bred the females.
115. The Appellant submitted that the temperature had dropped a few days after Jack's death, so burying him became a problem. She further noted that giving him barbiturates to euthanize him also would have created a disposal problem as other animals would have had to have been to be kept away from eating the carcass and consuming the barbiturates.
116. The Appellant noted that she has now found someone with a "farm gate plus" slaughter licence that could slaughter an animal for her in the future, if there was an emergency.

I. Analysis and Decision

117. Part 2.1 of the *PCAA* establishes the standards of care for animals and establishes a duty on those responsible for the animals to ensure those standards are met:
 - 9.1** (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.

(2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

- 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.

118. The definition of "distress" provides:

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.

119. We have also proceeded on the basis that the Appellant has an onus to show, that the remedy she seeks (return of the Animals) is justified. The first issue to consider is whether the Animals were in distress at the time of seizure. Depending on the answer to that question, the next issue is to decide whether to return the Animals or whether doing so would return the animals to a situation of distress.

120. With respect to the issue of distress, the proper interpretation of the *PCAA* holds that the Society does not need to wait for animals to show clear signs of physical or psychological harm prior to intervening to protect the animals from falling into situations of distress.

121. In *Bagga v. BCSPCA*, February 5, 2019 at paragraph (104) the Panel explained as follows:

"In considering the issue of distress, the panel starts with the proposition that the definition of distress is broad and the society does not have to establish an actual deprivation or harm to an animal before determining the animal is in distress. A medical finding that an animal is injured or in pain is not required in order to conclude that an animal is in distress. Instead, an animal can be found to be in distress when an animal 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. The definition of distress is intended to be protective and preventative. It does not require proof of actual harm; rather it describes those circumstances that create a significant risk of harm to animals and should be avoided. When these circumstances are not

avoided and conditions place animals at sufficient risk, the *PCAA* provides that they can be protected.”

122. In this case, the Animals (the female goats) were described in the evidence as having good body condition scores. However, they also showed signs of flea and parasite infestations, hoof issues and the potential for complications arising from their respective pregnancies. More concerning from the perspective of the Panel were the surrounding circumstances and the likelihood that the Animals were going to fall into a situation of distress if left in the Appellant’s care. The Panel notes in particular:
- At the time of seizure the Appellant had been hospitalized and the status of the ongoing care for the Animals was uncertain;
 - The Animals’ physical environment included numerous hazards that had been previously identified by the Society. The hazards remained unaddressed by the Appellant despite the Society’s interventions;
 - The Animals physical environment was unsanitary and had not been improved despite numerous directions and orders by the Society;
 - The Animals’ were not receiving proper veterinarian care, which was particularly concerning given the lateness of their pregnancies;
 - The Animals were not receiving proper nutrition or being provided with constant easy access to water;
 - The Appellant repeatedly demonstrated an unwillingness to work constructively with the Society or to take the Society’s interventions seriously;
 - The Appellant’s failure to contact a veterinarian upon discovering that Jack was injured and instead subjecting him to a process of euthanasia that condemned him to hours of unnecessary suffering, demonstrated a patent lack of common sense with respect to the care of the Animals;
123. Given all of the surrounding circumstances noted above, the Panel has little difficulty in finding that the Animals in this case were both in some measure of ongoing distress at the time of seizure and faced a significant risk of falling into more serious distress if the Society had not proceeded with the seizure. The Animals were deprived of proper nutrition, sufficient water, and veterinary care and their physical environment was both hazardous and unsanitary.
124. With respect to the issue of whether the Animals should be returned to the Appellant, the Panel notes that any return would necessarily have to be supported by evidence demonstrating that the Animals would not fall back into a situation of distress if they were returned to the Appellant.

125. As noted by the court in *Brown v BCSPCA*, [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 [in] the good condition in which it was released into its owner’s care.”

126. In this case, the Panel acknowledges that the Appellant has made some efforts to improve the conditions of her Property, and has shown some growth in her appreciation of the circumstances that led to the removal of the Animals. However, that evidence was limited and was not sufficient for the Panel to find that the Animals could be safely returned to the Appellant. The Panel notes in particular:

- The Appellant has failed to demonstrate any real appreciation of the suffering that her conduct caused to Jack. Both in terms of the hazards on the Property that likely led to his initial injury, and her patently unreasonable response to finding him injured (ultimately resulting in his death), the evidence shows that the Appellant lacked the basic problem solving skills that could have avoided his suffering and death.
- The Appellant disregarded the evidence provided by Dr. Tronson with respect to the proper care of goats when it contradicted her own opinions and the Panel has no confidence that the Appellant would meaningfully engage with a vet in the future.
- The Appellant’s inability to work with the Society, despite their significant efforts, and the extent that the Society had to intervene on very basic issues of animal care (accessibility of drinking water) demonstrate an inability on the part of the Appellant to attend to the most basic aspects of proper goat husbandry.
- Finally, the return sought by the Appellant would require the Appellant to care for six goats, two of which recently gave birth and four of which are newborn kids. The attention and care that will be required to properly manage these six animals will be beyond the Appellant even with the support of her mother and the limited support of her neighbors and friends. The preponderance of the evidence shows that a return of the Animals to the Appellant would invariably lead them to encounter further deprivations, hazards and neglect and that the risk to the Animals of falling in physical and psychological distress is untenable.

127. For all of the reasons noted above, the Panel finds that the Animals cannot be returned to the Appellant without being placed into significant risk to fall into

situations likely to lead to distress, and that the Appellant's response to such distress would likely compound the Animals suffering. The Panel cannot order the return of the Animals into such circumstances.

J. Costs

128. 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.

129. Section 20.6(c) of the *PCAA* 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)".

130. The Society is seeking costs as follows:

(a) Veterinary costs:	\$1,386.62
(b) SPCA time to attend seizure:	\$808.01
(c) Housing, feeding and caring for the Goats:	\$7,822.37
(d) Total:	\$10,017.00

131. On the matter of costs, the Society's submissions provide detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care of the Animals. The calculation of these estimates has been reviewed and supported in previous appeals.

132. While the Appellant disputed the necessity of the seizure and some of the costs incurred by the Society with respect to the Animals' care, the Panel has previously found that the seizure was justified, and further finds that the costs incurred to properly care for two pregnant goats both before and after giving birth, along with the costs associated with caring for their newborn kids are entirely justified in the circumstances.

K. Order

133. The Appellant is ordered to pay costs to the Society in the amount of \$10,017.00.
134. The Society is permitted to keep the Animals and, in its discretion destroy, sell or otherwise dispose of the Animals.

Dated at Victoria, British Columbia this 25 day of April 2023.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:

A handwritten signature in black ink that reads "David Zirnhelt". The signature is written in a cursive, flowing style.

David Zirnhelt, Presiding Member

Appendix “A”

Exhibit #	Date (Received)	Received from	Document
Exhibit #1	Mar 7, 2023	BCSPCA	Martin Decision Letter – March 7, 2023
Exhibit #2	March 13, 2023	Appellant	Martin – NOA
Exhibit #3	March 14, 2023	BCFIRB	2023 March 14 - Martin v BCSPCA P2307 - NOA Process letter
Exhibit #4	March 20, 2023	BCSPCA	Martin v. BC SPCA - Witness List
Exhibit #5	March 20, 2023	BCSPCA	BC SPCA Document Disclosure - Tabs 1-40 (Final)
Exhibit #6	March 29, 2023	Appellant	Appellant Submission Index
Exhibit #7	March 29, 2023	Appellant	Appellant's Submissions – Bookmarked
Exhibit #8	April 3, 2023	BCSPCA	BCSPCA Submissions – Martin
Exhibit #9	April 3, 2023	BCSPCA	Affidavit 1 Marcie Moriarty
Exhibit #10	April 3, 2023	BCSPCA	PCAA Expert Witness Handout and Form - Dr. Tronson
Exhibit #11	April 3, 2023	BCSPCA	PCAA Witness Contact Form - BCSPCA Witnesses
Exhibit #12	April 5, 2023	Appellant	Appellant Final Reply - Bookmarked