

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
18 CATS and 2 HORSES

BETWEEN:

ELISABETH PARKER

APPELLANT

AND

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO
ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia

Corey Van't Haaff, Vice Chair
and Presiding Member

Farm Industry Review Board:

For the Appellant:

Self-represented

For the Respondent:

Andrea Greenwood, Counsel

Date of Hearing:

March 6, 2017

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 January 31, 2017 review decision issued under s. 20.2(4)(b) of the *PCAA* by Marcie Moriarty, Chief Prevention and Enforcement Officer for the British Columbia Society for the Prevention of Cruelty to Animals (BC SPCA).
3. Section 20.6 of the *PCAA* permits the BC Farm Industry Review Board (BCFIRB), on hearing an appeal in respect of an animal, to require the Society to return the animal to its owner with or without conditions or to permit the Society in its discretion to destroy, sell or otherwise dispose of the animals.
4. For reasons that will be explained in detail later, I have decided that none of the cats and none of the horses will be returned to the Appellant and I will not require the Society to return any of these seized animals.
5. I will deal with the issue of costs below.

II. Brief Summary of the Decision under Appeal

6. The Appellant has a history with the Society.
7. In May 2013, the Society issued orders to the Appellant after securing a search warrant to view the animals. The Society found 20 – 30 cats and two horses. The orders were to provide animals in the Appellant's care with adequate food, water, shelter (there were feces and urine in the shed where the cats were kept), veterinary care, ventilation, and sanitary conditions. The Appellant was also advised to keep the shed door open to allow for adequate ventilation and escape from the unsanitary conditions. Four sick cats were surrendered to the Society and to a cat rescue which attended the seizure.
8. In June 2016, in response to a call about an underweight horse and several cats locked in a small building (about 8 x 16 per the ITO) without food, the Society attended the Appellant's property and while about to leave a notice on her gate, encountered the Appellant who refused entry and refused to allow the Society to view the cats. The Society sent photographs of the building/shed to Dr. Walton who advised the space was too small for the number of cats. The Society executed a search warrant on July 5, 2016 and found 18 cats in an outbuilding that smelled of ammonia and was locked to prevent exit by the cats. There were no litter boxes and the 18 cats were urinating and defecating inside on floors and blankets. Six cats were seized, including one cat that was locked in a travel kennel without water and appeared ill and five cats that needed immediate veterinary attention. The remaining cats showed signs of upper respiratory infections and

the two horses had hoof issues, but none of these animals were seized. Orders were left to provide clean water, veterinary care for all the cats within five days, a clean living environment, hoof care for the two horses, and proper hot-weather wear for horses. The six cats that were seized were mostly emaciated and had health issues and were not returned despite the Appellant's request for return.

9. On July 13, 2016, the Appellant's neighbour offered to pay for veterinary care for the Appellant's remaining animals. Dr. M (a veterinarian used by the Appellant but not called as a witness) attended on July 22, 2016 and reported that the cats were of acceptable body weight, some had skin infections, fleas and dermatitis, and that some needed dentals but not immediately.
10. On August 2, 2016, the Society found that the cats were still locked in the shed when they drove by but a neighbour said that only happened at night.
11. On January 3, 2017, the Society attended the property, with consent, and observed a horse named Espirit (described as a white or a grey horse at different times during the hearing) with two blankets which were removed to show it to be underweight with prominent hip bones and flaky skin, with water and alfalfa pellets for food but no hay or grass. Another horse named Dunit was slightly overweight and limping and seemed painful on its feet. No food or water was available but the Appellant seemed to be moving a bin into the pasture which had been grazed down. Stalls were available but had a large amount of frozen manure leading up to the stalls and inside.
12. The cats were locked in the wooden shed. When the door was opened, 3-4 cats ran out with one appearing to have a neurological condition and wobbling. There was a strong ammonia smell from the shed. A new window had been added and a large wooden box covered most of the floor and had a cat door cut into the side where a foam mattress was. The top of the box was covered with several travel kennels.
13. Two notices of distress were issued. One was for immediate veterinary care for the wobbly cat. Another required, within 7 days, hoof care for the horses, and adequate shelter, ventilation and living conditions for the cats.
14. On January 10, 2017, the Society attended the property and found the horse Dunit still lame, found both horses wearing soaking wet blankets, and found the cats locked in the wooden shed with no recent cat prints in the snow outside. The Society called veterinarian Dr. M, who advised he had not seen the Appellant's animals since July 22, 2016.
15. A warrant was applied for and granted on January 10, 2017 and executed on January 11, 2017. On that date, 18 cats and two horses were removed as being in distress. On January 31, 2017, after performing a review of the original decision to seize the animals, Ms. Moriarty determined that she was not prepared to return the Animals to the Appellant as she did not believe it would be in the animals' best interests.

III. The Society's Powers and Duties

16. 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".
17. 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).
18. 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.
19. 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

20. I am guided by the approach to appeals under the *PCAA* which is set out in detail in *A.B. v British Columbia Society for the Prevention of Cruelty to Animals* (August 9, 2013),

which decision was upheld by the Supreme Court on judicial 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 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 matters

21. Before proceeding further, I will address at the outset several issues that arose both during and immediately before the hearing.
22. The first issue concerns whether this appeal includes the Society's claim for reasonable care costs. Ms. Moriarty's January 31, 2017 written reasons state the following: "I appreciate that at this time your financial circumstances are challenging. At this time, for the purposes of this decision only, I am prepared to delay in seeking any costs." It appeared from the Appellant's material that she wished to appeal costs of care. Upon clarification, the Society confirmed it was pursuing costs. As the Appellant appeared firm that she was appealing costs, the parties were advised the costs issue would be addressed as part of this appeal.

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

23. The second issue concerns the availability of witnesses. The Appellant stated that she wanted to call “the lady at the Roberts Creek Post Office” as a witness; she did not know the Post Office lady’s name and the Appellant said the lady would speak about the box of photographs sent to BCFIRB, but when Board staff called the Post Office, the lady who answered refused to act as a witness, and so she was excluded. Another witness the Appellant proposed to call did not answer her phone. Her name was S. from a feed store, who was to testify, according to the Appellant’s handwritten notes, “re: depraved libel, stealing/killing of Parkers livestock/precious pets un a secret (til 2016 stalker act by a group of no authority, in collusion with criminal libel of Parker, injuring her pets (4 kitties noses smashed, kitty house lied about and smashed about when kitties home alone. 2 witnesses, photo and fraud animal porn photo and dismembered pet photos sent to Parker.” I was satisfied that the lack of these two witnesses did not hinder the hearing.
24. The third issue relates to an application that was made by the Society on February 23, 2017 for the appeal to be declared abandoned as it could not get confirmation of delivery of its submissions to the Appellant, and had not received the Appellant’s submissions on the due date. I declined to declare the appeal abandoned despite these difficulties. The Appellant lives somewhat remotely. She does not have running water or electricity, and she picks up her mail at the post office.
25. The fourth issue concerns the hearing itself. The Appellant had technical difficulties with her cell phone and had purchased additional minutes on her phone as well as gasoline to power her generator for recharging her phone. At several points, the Appellant was disconnected, apparently through no fault of her own but due to unreliable cell service. On each occasion, the remaining parties ceased speaking until the Appellant re-joined us. I am satisfied the Appellant missed none of the hearing. Although each party indicated what they wanted to see happen with the hearing should cell service be lost for any appreciable length of time, I was not required to make a decision on that.
26. The fifth issue arises from the fact that the Appellant did not have the Society’s submissions before her as she advised me that she had refused delivery of these mailings at the Post Office. The Appellant advised that she did not know why anything was being sent to her and she had forgotten who the law firm was for the Society and so did not think the parcels awaiting her at the Post Office were regarding this appeal. She stated that she did not wish to be distracted from this appeal and besides, she has several friends who’ve been blown up by mail parcels - plus the Society sent her photographs of her pets after they were dismembered and that has made her sick and emotionally traumatized.
27. I will note that I found no evidence that any of the Appellant’s animals had been dismembered and in fact, the Society confirmed that all 18 cats and two horses are alive and in Society’s care. I will therefore deal with all the animals seized in this appeal, providing final disposition for the 18 cats and 2 horses.
28. The Appellant denied that the photographs of the growths positioned between the anus and vagina of the white horse were actually of her horse. She referred to such photographs

as animal porn. The veterinarian who examined the horse at the Appellant's property testified that he took the photo, that the photo was still on his cell phone camera and that he recognized the gloves as belonging to him and his assistant. I am satisfied that the horse that appeared in the photographs was the Appellant's horse Espirit (referred to as both the white horse and the grey horse).

29. The Appellant also made allegations that the Society and/or police or other officials entered her shed and punched several of her cats in the face, causing them to bleed. I find that there was no evidence to support this allegation.
30. The Appellant made several derogatory and insulting comments about Society staff and their abilities and motives. As there was no evidence to support these allegations, unless an allegation specifically referred to the seizure, I gave it no weight. Allegations linked to the seizure were given the weight they deserved in the context of the evidence as a whole.
31. The Appellant also made several requests of me regarding the employment of Society staff which will be noted below as part of the Appellant's submissions, but are not within my jurisdiction to award, in the unlikely event I was inclined to do so.
32. I had to admonish the Appellant several times for outbursts and for genuinely, I think, misunderstanding when she could testify and when she could simply ask questions of witnesses. She peppered many of her questions with long preambles that would support her position. While hearing management was at times difficult, I am satisfied that the Appellant had a fair opportunity to present her evidence, question witnesses and offer her personal testimony, and that she took full advantage of those opportunities.
33. The Appellant advised that on Friday March 3, 2017 (the hearing was on Monday March 6, 2017) that she had sent photographs to BCFIRB by two-day courier. When I asked about this, she said she knew they would not arrive until after the hearing. She said she hoped they would have and she had hoped we would have viewed them. I did not view the photographs after the hearing and have not considered them as they arrived too late and did not form part of the record on this appeal.
34. Finally, when I explained how the decision would be delivered, given the lack of phone or fax or email for the Appellant, it was agreed that the written decision would be couriered at the end of the day March 20, 2017 and the Appellant would need to check with the local post office daily to monitor its arrival.

VI. Material Admitted on this Appeal

35. All affidavits and witness statements, emails, photographs, and materials submitted were entered into evidence. Parties were sworn before giving oral testimony.

Appellant:

- a) Appellant's February 3, 2017 Notice of Appeal #1 and supporting documents (totalling 10 pages) received by fax (**Exhibit 1**)
- b) Appellant's February 3, 2017 Notice of Appeal #2 and supporting documents (totalling 14 pages) received by fax (**Exhibit 2**)
- c) Appellant's February 8, 2017 Photos (totalling 6 pages) received by mail (**Exhibit 3**)
- d) Appellant's February 27, 2017 Submission (totalling 60 pages) received by priority post (**Exhibit 4**)
- e) Appellant's March 2, 2017 final submission (totalling 7 pages) received by fax (**Exhibit 15**)
- f) Appellant's witness list (**Exhibit 16**)

Respondent:

- a) BCSPCA Binder (Tabs 1-22) (February 15, 2017 via email & courier) (**Exhibit 5**)
- b) Affidavit #1 of Marcie Moriarty (March 1, 2017 via email) (**Exhibit 6**)
- c) Expert Witness Contact Form (Dr. Adrian Walton, Dr. Kim Steele, Dr. Jodie Wilson) (March 1, 2017 via email) (**Exhibit 7**)
- d) Witness Contact Form (SPC Leanne Thomson) (March 1, 2017 via email) (**Exhibit 8**)
- e) BCSPCA Written Submission (March 1, 2017 via email) (**Exhibit 9**)
- f) BCSPCA (February 9, 2017 email) confirming BCSPCA are seeking costs (**Exhibit 11**)
- g) BCSPCA (February 23, 2017 email) requesting the appeal be abandoned (**Exhibit 13**)
- h) BCSPCA email and delivery results advising that disclosure package and submission package have been refused by Ms. Parker (**Exhibit 17**)

BCFIRB:

- i) BCFIRB to BCSPCA - February 9, 2017 to BCSPCA to confirm if seeking costs of care (**Exhibit 10**)
- j) BCFIRB (February 10, 2017) letter to Ms. Parker asking her to confirm if appealing costs of care (**Exhibit 12**)
- k) BCFIRB (February 24, 2017) letter to BCSPCA denying BCSPCA request to abandon appeal (**Exhibit 14**)

The Appeal

VII. The Society's Review Decision

36. Marcie Moriarty, the Society's Chief Prevention and Enforcement Officer, issued written reasons dated January 31, 2017 on her review of this matter. After concluding that the animals seized had been taken into custody to relieve their distress, the written reasons stated, in part:

Having satisfied myself that the seizure was performed in accordance with the Act, I turn now to the question of whether the Animals should be returned to your custody. While I will rely on all of the documents listed above in making my decision, I note the following:

History

There is a significant history of the BCSPCA attending your property dating back to 2003 in response to concerns regarding both horses and cats in your custody. The most recent instance was the seizure of 6 cats back in July 2016. The result of that seizure was that it was determined that it was not in the best interest of those cats to be returned. I have attached a copy of that decision as it sets out in more detail your history with the Society, which plays a major factor in my decision regarding the Animals currently in our care. After the seizure in July, you were left with a number of animals to take care of and efforts were made to work with your son and a neighbour to assist you in maintaining these animals free from distress. While their efforts were commendable, with the neighbour even stepping in to assist with veterinary care, it was not enough. On January 3, 2017, the BCSPCA attended on your Property to conduct an inspection of the animals in your care. Unfortunately, they found animals that met the definition of distress and you were issued notices setting out what needed to be done to relieve them of that distress. These notices were not complied with and as a result a warrant was obtained and the Animals removed.

Current Seizure – Physical Environment

I found Dr. Wilson's report very helpful in describing the physical environment in which the Animals were living and the inadequacies of this environment that contributed to their distress. While I rely on her entire report in making my decision, I highlight the following comments regarding the cats' environment:

This group of cats were housed in completely inadequate conditions. They had no light, no ventilation, no warmth, no food, no water, no latrine space, no personal space, no room to play, no room to avoid fighting, and no room to express their normal behaviours. The ammonia levels in the air of the shed were much higher than is acceptable. This level can cause irritation of the respiratory tract, oral and ocular mucosa. It can predispose animals to or exacerbate preexisting respiratory disease. Experiencing difficulty breathing and obstruction of obtaining fresh air is one of the most significant causes of distress and suffering that an individual can experience. As well as physical discomfort and health concerns, it causes panic and distress. The recommended temperature for

housing cats is 15.5C to 26.6C; these cats were housed at -6C (the same as outdoors.)

Physical Condition

I have reviewed all of the medical notes and reports from the various veterinarians documenting the individual medical concerns for each of the Animals. The most serious concerns were identified in the cats and I will go into more detail in the following paragraphs, but it is important to note that both of the horses seized also met the definition of distress not only due to environmental concerns but also physical. Dr. Wilson summarizes the issues with the horses as follows:

Both Epirit and Dunit had signs of untreated or inadequately treated medical conditions causing pain and distress (lameness, perivulvar and perianal masses.) Both horses had some shelter from the elements on the site, however, the unsanitary conditions, unsafe footing of the ground and painful lameness of both horses made these shelters inaccessible to the horses in actuality...

In summarizing the physical concerns with the cats, I find the report of Dr. Walton particularly helpful, especially the chart that documents each individual cat and the exam findings and recommendations. Dr. Walton summarizes the concerns regarding the cats as follows:

The cats were suffering from a series of painful conditions, the most common being severe dental disease. Several of the cats had significant tartar buildup and associated gum recession, loose and missing teeth. Like people, dental pain in cats can be a debilitatingly painful condition. Several required pain control and antibiotics pending full dental with extractions. Many of the cats showed signs of ocular and nasal discharge secondary to the high level of irritating ammonia detected within the enclosure...

Many of the animals were also showing signs of ear infections that were easily observable with minimal observation of the animals. At least two of them had purulent discharge, and were very painful when the ears were examined. ...some of the cats were already showing signs of dehydration as evidenced by prolonged skin tenting and dry gums.

Conclusion

It is clear from the above that the Animals most certainly met the definition of distress and of particular concern to me was the fact that the issues identified were not new issues, but ones that you had been made aware of in past interactions with the BC SPCA. I appreciate that your circumstances at present are not ideal and that you have had to rely on the assistance of neighbours, family and local rescues to provide help to care for your Animals. However, this help is clearly not enough based on the condition in which we found the Animals. As has been previously explained to you, there is a positive obligation for animal owners as noted in section 9.1 of the Act that requires that an animal owner should be taking proactive measures to keep their animals free from distress. Based on a review of your file, I do not believe that you are able to meet those

obligations and fear that if Animals are returned to you, they would again fall into a situation of distress.

Having regard to all the above, I am not prepared to return the Animals to you as I do not believe it is in their best interest.

IX. The Society's Evidence

Dr. Jodie Wilson

37. Dr. Jodie Wilson is a self-employed veterinarian licensed to practice in BC. She attended the Appellant's property on January 11, 2017 mid-day to perform an on-site inspection of the animals. She appeared as an expert witness.
38. Dr. Wilson prepared a comprehensive written report found at Exhibit 5 Tab 5, reproduced here in part (with typos):

Observations

General Environs with Accessory Access for Equines

... The most prominent thing I noticed upon entering the property was that every single blade of grass around the property was uniformly shorn right down to the ground from the horses grazing on it. There was no bladed grass or leaves left that I could find, even in the driveway and there were scatterings of small firm horse manure all around the property. Small and dry feces are abnormal in horse and are a sign of inadequate food and water. Even in areas that are hazardous for a horse to reach (under the sharp metal edges of trailers, under a stack of used paint cans, under thorny blackberry bushes) the grass had been picked clean. This is a sign of lack of access to adequate water, food and pasture. The only horse food that was found on the property was a few alfalfa pellets in a small bowl outside of the second shelter near the driveway. There was no grass or hay available for the horses and none found elsewhere on site. Hay and grass are the single most important parts of an equine diet and nothing can be substituted for them. Pellets are inadequate and harmful as a sole diet for a horse. There were a number of large rubber water tubs containing frozen water around the property. One water trough in the first shelter was empty and dry, and the water tub in the paddock was frozen solid. This means that Dunit had no access to water. In the rest of the water tubs which the white horse had access to, the ice had been partially broken so small amounts of water could be accessed through a small window in the ice.

Primary Equine Housing Areas:

- 1) Second shelter housing "Espirit"

When walking in the driveway there was evidence that once or more of the horse were allowed access to this areas as the grass was cropped and there was horse manure. The door leading to the second horse shelter where Espirit was housed was stuck in an open position by frozen mud and water. The steps leading from the driveway to this shelter

appeared well used as the ground had manure on it and was irregular and difficult to walk on due to frozen iced filled hoof prints. Outside the shed next to this door was the only food found for the horses, a small bowl of alfalfa pellets. Going inside the shelter was difficult as the entire floor was blanketed with a little over 12" of manure from wall to wall which makes for unstable footing. The building had a moderate smell of manure and ammonia although it provided respite from the wind and sun. The small outdoor enclosure leading out of this and separated from the paddock by a fence and gate was similarly covered in manure and ice and had an uneven irregular surface.

2) First shelter and paddock housing "Dunnit"

The paddock was a moderately large space with no shade or shelter. Most of it was grassy however as noted earlier, all grass had been eaten down to the ground. The paddock was fenced along much of it and backed onto blackberry bushes shrubs and dense trees along the other half. Along the length of one side was a large trailer, the bottom edges of which had irregular sharp sheet metal and siding. Underneath these sharp edges the grass had been chewed down to the ground extending under the trailer. Another edge of the paddock was lined with a few old vehicles: a tall trailer, a car and a boat. Between the trailer and the car there was a small patch of ground with thorny blackberry bushes where we found a moderate amount of manure. Despite the spot being small and uncomfortable, this indicates that the horse or horses tended to use this spot a lot, almost certainly out of need to use the trailer as a windbreak. The ground in approximately 1/3 of the paddock was uneven, irregular and frozen and Dunnit visibly struggled to keep her footing here. Importantly, the area most difficult for her to walk on was the area leading to the water tub and the gates through which they access the shelters. The small enclosure connecting the shelter to the paddock was treacherous to walk on; I almost lost my footing a few times. The ground was frozen, slippery with ice, irregular and uneven from hoof prints and from being covered with 6-12" of manure. Inside the shelter the entire ground was covered with at least 12-16" of manure. When walking in this area my legs sunk approximately 8-10" into the manure. Although the shelter provided some respite from wind and sun the smell of manure and ammonia was noticeable. There was no food and a dry empty water tub inside.

Equine Exams

We performed cursory triage exams on both horses to clear them for transportation to an equine veterinarian who could more thoroughly evaluate them.

Espirit was an adult white mare. She was wearing two horse blankets which seemed appropriate for the cold weather. Her hooves were trimmed and not too long and her hooves had been cleaned. The horse had fecal matting and staining extending from her coronet bands to her hocks and carpi. She was underweight with a body condition score (BCS) of 4/9 (5 being ideal). She was thin with ribs palpable but not visible. She had muscle atrophy and loss of fat stores over her pelvis and lower back and had swayback. She favoured her right front limb when walking and offloaded weight from the limb when standing. Her incisors were unremarkable. On the bridge of her nose she had a 2" red linear discolouration of her fur consistent with dried blood. There was a skin lesion underneath that I could not evaluate without further clipping the hair. She had some dermatitis and seborrhea on the skin and coat of her dorsum. I have seen dermatological lesions like this before from wearing a blanket for a long time without adequate brushing. She had a number of large dermal nodules coalescing around her perianal and vulvar

orifices. The ventral edge of her left vulvar labia had an open sore with dried purulent discharge. Espirit showed discomfort when these areas were touched (flinching, moving away). When left alone she also tended to hold her tail up, consistent with showing pain and discomfort from her tail touching these lesions.

Dunnit was a brown mare. She was wearing one horse blanket for warmth. Her hooves were trimmed short and appeared clean. Her limbs had more noticeable fecal matting extending from her coronet bands to her mid metacarpals and hocks. She was overweight to obese with a BCS of 7/9. Her skin and coat were unremarkable as were her incisors. When walking she had moderate gait abnormalities which appeared to affect all limbs, with the left forelimb and right hind limb appearing worst. She off-loaded weight on these two limbs when standing as well. Our concern for her discomfort in multiple limbs during transport was high enough that she was given an analgesic prior to transportation.

Feline Environment

To find the cats on the property we were directed to a small plywood shed. There were no windows, and one door which was padlocked closed. There was a small square "cat door" on this door which was also padlocked closed. Hanging just inside the door was a rug presumably used for insulation. Upon opening the door we entered a dark, cold crowded room. Despite it being a clear sunny day at 12:55 pm we could not see inside without using flashlights. The stench of ammonia was powerful. The temperature inside was measured at -6°C (equal to that outside) and ice crystals were all over the ceiling and upper walls. After letting our eyes adjust to the light of our flashlights, we could see that the ground and surfaces were covered with wood shavings. In the center of the room and taking up the majority of the floor space in the shed was a large box with two small holes on the sides (cat doors) and heavy boards on top as a lid. On top of this were 3-4 cat carriers covered in blankets. Along the wall to the left of the door there were 3-4 small cat carriers with towels and wood shavings inside, and a cat toy. To the left of the large box was a wobbly plastic table on which lay a dirty empty broiler pan which had appeared to have been used as a group feeding plate as well as a turkey roasting pot half filled with solid ice. The table nearly collapsed under the additional weight of my hand and toppled when cats jumped on it. The floorboards to the left of the door were weak and bowed under minimal pressure or weight. In this same area was a vertical wooden beam supporting the ceiling which was loosely wedged into place. It shifted and moved if you touched it and indeed moved a few times when cats or people bumped into it. To the right of the large central box was a narrow pathway along the right wall which was blocked by furniture covered in a vinyl tarp.

One cat was found enclosed in one of the small cat carriers on top of the central box with the door latched shut. In the crate with the cat was some food but no water, no litter and just enough room to turn around. This cat was vocalizing loudly and constantly, she quieted when we got her out and gave her affection and attention. The rest of the cats were loose in the shed. Some cats were friendly and social but most were very frightened and fearful upon our entry. All of the cats except for the one locked in the carrier were silent which is unusual and sign of poor emotional health. Most if not all of the cats that I saw had nasal and or ocular discharge; indications of physical illness created by emotional and physical stress, overcrowding and poor disease control. Due to the limitations of the physical environment we were in and out of concern for minimizing stress for the cats, we elected to do full examinations after they had been removed to a safer location off site.

All together we found 18 cats in that small shed. There was no food or water available and no litter boxes. Due to the crowding and building materials of the shed, there was no way of cleaning the room other than sweeping up shavings and replacing them. This method alone is inadequate as evidenced by the overpowering smell of ammonia. Proper cleaning requires waterproof floor and wall surfaces so they can be washed and disinfected. The floor appeared to be rotting through and the ceiling insecure, very unsafe conditions for people and for the cats. There was no lighting or ventilation and woefully inadequate space. The feeding area we saw was also insufficient. It was on an unstable unsafe surface and there was not enough room for 18 cats to feed and drink without conflict. There was altogether far too many cats in far too small and inadequate a space.

Discussion: Health and Welfare Concerns

...

Equine Welfare:

Both Epirit and Dunit had signs of untreated or inadequately treated medical conditions causing pain and distress (lameness, perivulvar and perianal masses). Both horses had some shelter from the elements on site, however the unsanitary conditions, unsafe footing of the ground and painful lameness of both horses made these shelters inaccessible to the horses in actuality. Epirit had limited access to water (through pushing her muzzle through a small hole in broken ice) and Dunit had none. Dunit had no food, and Epirit did not have access to adequate or appropriate food. The small, dry horse manure seen in the property concerns me that these horses were chronically deprived of the adequate food and roughage that every horse needs. Very minimal basic care of equines requires that they have constant access to unlimited water as well as hay and grass. The complete devegetation of all of the grass on the property, including in areas that were dangerous and intimidating for a horse to reach is evidence of their stress trying to feed themselves. Again, basic minimum standards of horse care requires that they have ground that is safe for them to walk on to prevent stress and physical injury, and that their feces and urine are removed for sanitation and comfort. This was not done and had accumulated over a substantial period of time.

Feline welfare:

Cats living in groups have social hierarchies. This becomes even significant when resources such as fresh air, light, warmth, space, food, water, and latrine space are limited, which they most certainly were here. Even when two cats share a household, each cat should have their own food bowl, water bowl and one litter box per cat plus one extra box; all with enough room for these to be separated from the other cat's to prevent resource guarding, conflict, physical altercations and stress. Situations like this increase interspecific competition, fighting and stress. Stress and fighting decrease the immune system, increase illness, and invariably cause emotional distress. Although it is possible that some cats at the top of the hierarchy may have been able to get enough food if it was provided (despite our not finding any food at the time of inspection), there is absolutely no way that all of the cats could in that competitive situation.

The single cat who had been confined to a carrier alone is a significant concern. Cat carriers are only acceptable as a temporary (minutes to hours) place to confine cat for

example, during transport. Housing a cat in a carrier is considered to be unacceptable and “cruel.” This cat showed signs of distress (frantic and excited vocalization nearing on panic). This group of cats were housed in completely inadequate conditions. They had no light, no ventilation, no warmth, no food, no water, no latrine space, no personal space, no room to play, no room to avoid fighting, and no room to express their normal behaviours. The ammonia levels in the air of the shed were much higher than is acceptable. This level can cause irritation of the respiratory tract, oral and ocular mucosa. It can predispose animals to or exacerbate preexisting respiratory disease. Experiencing difficulty breathing and obstruction of obtaining fresh air is one of the most significant causes of distress and suffering that an individual can experience. As well as physical discomfort and health concerns, it causes panic and distress. The recommended temperature for housing cats is 15.5°C to 26.6°C; these cats were housed at -6°C (the same as outdoors).

Their building was unsafe and inappropriate for housing animals. The conditions were unsanitary and from the brief amount that I was able to see the cats, there were obvious signs of untreated infectious disease as well as emotional distress. They were unsocialized and fearful of people, and the quiet panic that our entering the shed produced is a sign of learned helplessness, a coping behaviour which can be seen with prolonged psychological suffering.

39. Dr. Wilson testified, and I accept, that her written report was accurate.
40. Dr. Wilson testified that her biggest concern for the horses was the lack of appropriate food and water, evident in the fact the grass was clipped to the ground as it had been eaten away and one horse had even had its head under the trailer to eat grass. She worried about contamination from the vehicles which were breaking down and were not considered safe. She did not see any hay. The frozen water had a hole broken in it that was smaller than the horse’s muzzle scraping its nose to drink. Her initial concern was no free access to grass, hay or forage and limited access to water; she looked for signs of ruffage in the horses’ stools in the pasture and paddock but the stools were small and dryer than most horse stool, which showed that there was no fibre in the stool.
41. The small barn had shelter for the horses but it was difficult to get to the walled-in area which would offer protection from wind and precipitation as the surface was uneven with frozen mud and manure. Horse husbandry dictates that manure must be cleaned daily and a soft substrate be available for a horse to lie down on, or there can be damage to a horse’s muscles, tendons and nerves. Dr. Wilson estimated that the build-up of manure would have taken months to cover such a large area so deeply. No bedding was seen - just a foot or more of manure. She could not see the ground.
42. The blackberry leaves had also been eaten short.
43. Espirit the white mare was a “touch thin” with a large painful coalesced mass under her tail that had both dry and wet pus and an infected discharge on the vulva and labia. When she was touched, she flinched and she held her tail up to avoid it touching the painful masses. There was evident fecal staining far up the horse’s legs easily explained by the

depth of manure on the ground. Her hooves were well-trimmed, which is a sign of daily maintenance. Espirit had mild flaky skin from the blankets not being removed and aired out. When she walked she favoured her right front limb.

44. Dr. Wilson only saw alfalfa pellets which were a “woefully inadequate diet for a horse.” She said horses need access to large amounts of hay or fibre for their digestive systems to work, and for their teeth to properly wear down.
45. With Dunit, Dr. Wilson said she relied on her report.
46. The cats in the shed, which was padlocked with closed windows, was pitch black inside with a powerful smell of ammonia which measured 20-50 parts per million (ppm). Dr. Wilson testified that the acceptable maximum level of ammonia in a cattery was less than 2 ppm. She was struck by the silence of the cats upon entering.
47. The temperature was measured at -6 degrees Celsius and the minimum temperature per the Code is 15.5 to a maximum of 26.6 degrees Celsius. Dr. Wilson saw icicles hanging from the ceilings and walls once her eyes adjusted to the flashlight light.
48. The cats had no water, food or kitty litter; the only water was frozen solid in a large turkey roasting pan which Dr. Wilson said would have taken a while to freeze solid. Another roasting pan had the remains of food but no food. Those were the only food and water containers for 18 cats.
49. Dr. Wilson said the level of fear shown by the cats was higher than she expected when a stranger entered, describing it as “abnormal.”
50. There was definitely not enough space for 18 cats and group housing for cats should never exceed 10-12 hand picked cats, with one litter box per cat plus one extra. With 18 cats in these circumstances, Dr. Wilson said there would be a level of conflict and a number of the cats showed signs of fighting and wounds, which was consistent with too many cats.
51. She said she saw ocular and nasal discharge in the cats, and upper respiratory infection signs which are compounded by stress and overcrowding. The levels of ammonia that were measured would cause significant irritation in the eyes and upper airways.
52. The cats had varying weights, long nails, infected looking ears and every cat had significant dental disease.
53. In response to questions from the Appellant, Dr. Wilson said she had not discussed with SPC Thompson either the animals or the person who owned them, but she was simply requested to give her observations of the health and welfare of the animals. She stated that is qualified to observe the horses given her four years of veterinary school. Since graduation she has specifically worked with dogs and cats. Dr. Wilson also confirmed she did not show her ID as she had been instructed not to interact with parties, and when

asked by the Appellant if she overheard a conversation between two parties, she said she probably did not.

54. Dr. Wilson said her concern about the horses eating blackberry greenery was not that eating that greenery was inappropriate but that everything green and edible was “basically gone”, and horses prefer grass. Blackberry bushes wouldn’t be denuded unless everything else was already gone, as was the case in the pasture where the horses were.
55. In response to my question about body condition scores, Dr. Wilson testifies that bigger does not mean healthy and in fact one horse was overweight which does not equal having adequate nutrition. Horses need fibre and ruffage, not calorie rich pellets.
56. Dr. Wilson testified that upon seeing the abnormal gait in one horse, she recommended that that horse see an equine practitioner. Dr. Wilson testified that with the horses, inadequate access to water was evident in the animals’ stool quality and she didn’t see moisture in the animals’ stools. She said the horses’ gums were mildly tacky, a sign of lack of moisture, but she was not overly concerned about transporting the animals to the equine veterinarian.
57. Dr. Wilson testified that when looking at Exhibit 5 Tab 4, photograph 4 on page 28, she “absolutely” thought it was the same discharge and lumps she saw on-site in the white horse as she was standing next to the person taking the photos at the property at the time of seizure and it was the same horse, exactly as shown in the photo.
58. Dr. Wilson testified that blackberry greenery was not an adequate diet for a horse.

Dr. Kim Steele

59. Dr. Steele is a veterinarian licensed to practise in BC. She only examined the horses, not the cats. She appeared as an expert witness. She reviewed Dr. Adrian Walton’s report (discussed below). Her only issue with the report was she would have scored Espirit as a 3/9 BCS not the 4/9 given by Dr. Walton. She otherwise concurred with the findings in Dr. Walton’s report.
60. Dr. Steele provided a brief written report that said:

...the Dun Mare was bright, alert and responsive with no overt signs of lameness but a history of hoof sensitivity on hard ground. Body Condition Score (BCS) was 5/9 with a good coat. The Grey Mare was bright, alert, responsive with a BCS of 3/9 and a good coat. The horse had multiple melanomas on her body and multiple melanomas on her vulva and anus with a horizontal laceration that appeared mildly infected on the left side of the vulva. The mare had lameness which was a fibrotic myopathy of the right hind, which is considered mechanical and is not associated with pain. The horse had progressed osteoarthritis in her right hock and both capris which decreased flexibility and could be associated with pain. There was also a grade 2-3 systolic murmur with no symptoms of heart failure at this time. Dental exam indicated very sharp dental points, and possibly

some extractions were needed. Fecal tested positive for strongyles with a moderate egg count.

61. Since Dr. Steele's January 11, 2017 examination of the horses, the white horse [described as grey aged Arab type mare] developed colic and abdominal pain with impaction and constipation, usually as a result of eating too much fibre or not enough water. This occurred about 36 hours after the animal was seized and could have developed during that time or could have developed relatively slowly. A combination of stress and travel could have perpetuated colic.
62. Given its lameness, the horse was given an analgesic so was more comfortable during Dr. Steele's exam. The horse had thin soles which are more sensitive, so the environment and low temperatures had to be considered as the soles could become bruised.
63. Dr. Steele testified that a horse can be fed a diet of just alfalfa pellets if it were supplemented with grains and minerals but that this would be an uncommon diet, normally fed for medical reasons. A horse would eat 15-20 pounds a day of pellets.
64. Dr. Steele stated that the grey horse [white] had significant dental issues, which issues in her view should be addressed before diet modification. The teeth had malocclusions which would make it uncomfortable and inhibit chewing. Dr. Steele observed odour and sharp teeth which necessitated dental care in the grey [white] mare.
65. Dr. Steele testified that the level of manure described in the report was not normal and manure should be cleaned daily or at least multiple times a week. A foot of manure would take quite a bit of time to accumulate and facilitates parasite transmission and foot health concerns.
66. In response to questions from the Appellant, Dr. Steele agreed that she did not know things the Appellant claimed had happened as she only had the other veterinary reports and her own examination.
67. In response to my questions, Dr. Steele testified that the melanomas were the main problem. As horses having melanomas often end up with sores that become painful and infected as they back into places where they can scratch, which likely caused the horizontal laceration. They could get sick or inflammations and usually these melanomas need to be cleaned daily and a topical ointment applied or a systemic antibiotic administered.
68. Regarding the melanomas on this horse, Dr. Steele said they needed intermittent veterinarian care and ongoing management by a veterinarian plus daily cleaning to check for infection, and there was no evidence this horse's melanomas had been cleaned daily.
69. Dr. Steele was unable to tell if the small alfalfa pellets were of a certain complete type without the label but if it was a "complete" pellet, it could be used as a major food source

but the horse would need selenium, minerals and other vitamins if the pellets were not “complete.”. The Dun horse appears to have adequate caloric consumption but not necessarily nutrition. The grey [white] was mildly underweight and needed additional nutrition. Alfalfa Tec to Dr. Steele’s knowledge is not a complete food.

70. Dr. Steele stated that horses need 20 litres of water a day. If dehydrated, which could cause impacted colic, the precursor to colic is small dry hard feces. Even mild dehydration can harm a horse as it predisposes them to colic. Horses should receive a fresh bucket of water at least three times a day.
71. Closely clipped grass indicates the horses have grazed intently and the grass has not been replenished, and has all been eaten.
72. Six to 24 inches of manure is not an acceptable environment for a horse and the area needs to be cleaned out. It would have taken a fair amount of time to accumulate to those levels. For bedding, a horse requires a clean dirt surface and prefers a dry clean place with a mat or shavings that are cleaned on a regular basis.

Dr. Adrian Walton

73. Dr. Adrian Walton is a veterinarian licensed to practise in BC and his practise is mostly small animals and exotics. He appeared as an expert witness. He confirmed that he wrote the report found in Exhibit 5 Tab 4, which I have relied on in my decision. An excerpt of the summary is presented here:

The cats were suffering from a series of painful conditions, the most common being severe dental disease. Several of the cats had significant tartar buildup and associated gum recession, loose and missing teeth. Like people, dental pain in cats can be a debilitatingly painful condition. Several required pain control and antibiotics pending full dental with extractions. Many of the cats showed signs of ocular and nasal discharge secondary to the high level of irritating ammonia detected within the enclosure. I am recommending close observation for signs of concurrent upper respiratory disease (URI) that might be missed at the time of inspection. Any animals still showing ocular and nasal discharge 3-4 days removed from the irritation should be assessed for URI’s. It is my professional opinion that any animals that still show ocular and nasal discharge are suffering from URI AND environmental irritation.

Many of the animals were also showing signs of ear infections that were easily observable with minimal observation of the animals. At least two of them had severe purulent discharge, and were very painful when the ears were examined.

These animals were found huddled together, likely for warmth. The one animal locked in the kennel could not benefit from shared body heat which might account for its poor body condition score. The temperature at noon within the building was -6 degrees celsius so supplementary heat was warranted.

The cats were not provided with sufficient food or water. During freezing temperatures it is essential to provide unfrozen water source several times a day. Our site inspection was

around noon and the water was frozen solid, suggesting the water hadn't been changed for quite some time. Some of the cats were already showing signs of dehydration as evidenced by prolonged skin tenting and dry gums. During cold snaps, extra food should have been provided to ensure that there was sufficient calories to provide for keeping warm. One animal 423387 vomited up wood shavings having likely consumed them in a search for nutrition. This animal does have neurological issues, so cannot completely rule out if it has/hasn't pica behaviour (overwhelming urge to eat not food related items).

74. Dr. Walton testified that based on follow-up reports at Tab 7 and 8 from two other veterinary clinics, some of the cats' dentals were worse than he noted. He could only open the cats mouths perform a cursory exam while on site. The other vet examined the cats at a clinic and could remove tartar and measure pockets and use dental x-rays to assess the health of the roots. And in many situations the pockets were deeper and more severe.
75. I pause here to note that at Exhibit 5 (tabs 20 and 21), there are two veterinary clinic estimates for dental work; neither veterinarian was called as a witness. Dr. Horsman's estimate notes that nine cats need urgent dental care before February 2, 2017 due to "severe periodontal disease, abscessed teeth and or fractured crowns from either resorptive lesions and or trauma." Dr. Spence's estimate lists a different three cats as "most imminent" followed by two more cats noted as "least imminent – likely to develop further dental disease and FORL's in future."
76. Dr. Walton confirmed the -6 degree Celsius weather and that the Cattery Guide states 15 degrees is the lowest cattery temperature. The ammonia levels were significantly elevated at 20-50 ppm and human health care is at 20 ppm or less and he and his vet tech did notice respiratory difficulties for the rest of the day.
77. The ocular and nasal discharge Dr. Walton saw in the cats was consistent with ammonia exposure or with upper respiratory infections or it could be both. The windows were closed in the shed.
78. The drinking water was frozen solid and there were ice crystals on the roof. The building was warming due to temperature warming up at that time of day, and due to the body heat of the people in the shed.
79. If the temperature was below optimum, the cats would need additional food.
80. Dr. Walton stated that he did not see any feces or urine on the floor and the floor was quite clean.
81. The isolated caged cat would be unable to receive body heat from other cats. It had food in its cage and urine staining on all four feet and about five minutes after arriving, the caged cat vomited wood shavings which either meant it consumed wood shavings earlier or suffered from Pica where it would have the urge to eat anything.

82. Dr. Walton testified about several cats referenced in his report, noting that some had fractured teeth, one was mildly dehydrated, some had nasal and eye discharge and that he saw bacterial and yeast infections in ears. One cat had an eye wound that went right through the eye lid. Most cats had good BCS but suffered from ear problems, severe dental issues and ocular discharge. One cat was wobbly and might have neurological issues. His main concern was the teeth of the cats. He stated that since the seizure, several were on painkillers, Surolan and eye drops.
83. Dr. Walton said the photo on page 545 was particularly disturbing to him as it showed a q-tip with debris taken from one cat's ear that was a lump of yellow and red mucous that had been in the ear so long, it adhered to the ear canal and plugged the ear. He had to pull it out and it was oozing, and he testified that it "grossed" him out. It had been in there longer than 2-3 weeks; enough time that it congealed.
84. Dr. Walton testified about the white horse that it had a multi-lobulated mass below the rectum, above the vulva and including the vulva, and it had purulent discharge from the vulva. The photo was taken the day of the seizure while his assistant took the photo as he was holding the tail up and the photo was taken inside the paddock.
85. The cats for the most part were semi-feral and some were friendly. The shed windows were closed and there was no form of ventilation. There was a large box in the centre that the cats could go into or on. It was tight quarters. The minimum surface area according to the Code of Practice for a single cat is 1.5 metres squared or 27 metres squared for 18 cats, and the actual surface area was insufficient at 15 square metres.
86. The horse environment was noteworthy as the horses had eaten everything including the blackberry greenery which showed that the horses were trying to get extra food. The fencing was adequate but the vehicles and trailer presented risks of catching on the horses. Water was present and available and potable and the horses could break through the ice. There was more than 20 cm of manure and no hay or straw so the manure just accumulated and the horses stood in their own waste. The horse shed had an opening with some fecal matter present and as you went inside toward the three walls, the manure became deeper and deeper and it appeared to him as the place where the horses sought shelter. There was small pelleted food, no hay.
87. Dr. Walton testified that his job was to triage the animals and that the horse with the masses needed to be assessed.
88. In response to questions from the Appellant, Dr. Walton confirmed he had not killed any of her pets and confirmed there were 18 cats and two horses. He testified that he knew nothing about the Appellant receiving any photographs of her animals dismembered.
89. He confirmed the only source of light was the windows and they were shut, and the water inside the cat shed was frozen. The only cat food was inside the cage of the isolated cat. He did not see any access between three kennels and did see three quilts that were used to

baffle the heat. Dr. Walton said he did not think frozen water placed in the cat shed to thaw would actually thaw as it was below freezing. Dr. Walton said milk was not an appropriate food source for cats.

90. Dr. Walton confirmed that when the Society measured the ammonia in the air, he saw the test strip change colour consistent with an ammonia reading of 20-50 ppm.
91. Dr. Walton confirmed his opinion that the horses were using the shelters where the manure accumulated as he saw hoof prints in the manure. When asked if he knew that the horses only went to the bathroom in the stall then left, he said he did not.
92. He said he did not know if the cats were all bonded with each other and the one cat with the eye injury had scabbing present so it was an old injury.
93. When asked again about the grey Arabian [white horse] and if he was aware that there were only small growths on the peri-anal area, Dr. Walton testified that the largest mass was the size of a plum. Dr. Walton, when asked by the Appellant whether after six years she would know her own horse's back-end, replied that he could not be sure if she would.
94. Dr. Walton said he was unable to determine if laminated timber was used in the shed. He confirmed he could tell the difference between a small travel cage and a large dog cage.
95. The Appellant suggested that Dr. Walton stood to make a lot of money from his involvement, but that if he had instead spoken to her, he would know more about her animals. Dr. Walton responded that he was not in control of people on the property and was advised not to discuss anything with people on the property.
96. Dr. Walton testified in relation to the cats that he did not see urine or feces but the smell of ammonia was coming from somewhere under the top layer of shavings or the urine had soaked into the wood floorboards. When asked if being cleaned with sudsy water would eliminate the smell, Dr. Walton said ammonia is a chemical that is not neutralized by sudsy water and he noticed his own difficulty breathing.
97. In response to my questions, Dr. Walton confirmed the photo of the white horse's rear end under her tail, and said he was absolutely certain this was the horse he examined at the Appellant's property on the same day as the seizure and confirmed the photo was still on his camera phone and that was the same horse.
98. Dr. Walton confirmed that the cattery code requires continuous access to water for cats.

Special Provincial Constable (SPC) Leanne Thomson

99. SPC Thomson has been an employee of the Society since 2006, and an SPC since 2008. She said she reviewed the file before she attended the Appellant's property. She noted in the file that one horse was euthanized as being in critical distress in 2003, orders were

issued in 2013 about leaving the cat shed doors open, and a search warrant was executed in July 2016. At that time, six cats were removed and orders issued to provide water, veterinary care, adequate space and adequate ventilation, to keep the area clean, to attend to horse hoof care, and to remove horse winter jackets in the summer hot temperatures.

100. SPC Thomson said that in July 2016 after the six cats were seized, Dr. M examined the cats outside. He did not go into the shed but he did say the ventilation was not adequate and that there needed to be adequate shelter for winter.
101. SPC Thomson said that there were low Society resources on the Sunshine Coast.
102. On January 3, 2017 Kristy King, shelter staff, went to check the property as no constables were available. She drove by the cat shed and the door was not open.
103. Also on January 3, 2017 SPC Thomson inspected the horses and cats and issued orders to the Appellant to take the black and white wobbly cat to the vet and within seven days take the other cats to the vet, plus provide adequate shelter, ventilation and living conditions. When SPC Thomson pointed out the nasal and ocular discharge in the cats, the Appellant told her she needed better glasses. The Appellant told her she had another cat once with “wobblies” and it got better on its own.
104. On January 10, 2017, SPC Thomson called Dr. M who said he had not seen the Appellant’s cats since July 22, 2016 when he gave Ebony, a cat, a dental treatment. On the same date, the Society’s Sunshine Coast Society branch manager Ms. Krapiec attended the Appellant’s property and observed Dunit lame and with an uneven gait and wearing a wet blanket. The cat shed was locked and no cat footprints were visible in the snow near the shed. Ms. Krapiec’s view point was from the gravel road a car length or two from the shed.
105. On the basis of all this, SPC Thomson applied for a search warrant which was granted and was executed on January 11, 2017 with the RCMP, and attended by Dr. Walton, Dr. Wilson and Kristy King the relief manager from the Society’s Sunshine Coast branch.
106. The Appellant was outside and did not acknowledge SPC Thomson’s presence when she arrived January 11, 2017. SPC Thomson provided the search warrant to the Appellant, and the Appellant said “liar”. The Appellant stated to her that she went to see Dr. M, that the cats were not sick and that there was no horse vet as Dr. G. (another veterinarian) was “veterinarian to millionaires.” SPC Thomson then walked through, accompanied the veterinarians.
107. SPC Thomson testified that the white mare was lame, that its water was frozen with holes created by the horse itself to permit the horse access to water, that some food pellets were available and that a large amount of manure was inside the shed. Both horses were outside by the outbuilding. The lower pasture where Dunit was had a stall heavy with manure. Both stalls were full of frozen manure.

108. SPC Thomson said there was a lot of fecal staining on the white horse and it seemed painful. She noticed no food available and the pasture had been grazed down. The horse was given pain medication for transport.
109. The cat barn was locked and the Appellant would not open it so bolt cutters were used. SPC Thomson used an industrial respirator and performed an ammonia test, which showed 20-50 ppm. The shed was dark so SPC Thomson used a flashlight. She saw ice crystals on the ceiling. There was a cat with an eye infection. There was no food or water except for the wobbly cat which had food in its cage but no water. Just using her cell phone light, she could see ocular and nasal and ear discharge. SPC Thomson testified that it felt as if the floor was giving out as it buckled a bit under her where she walked. The floor was covered in shavings. There were two small, closed, windows.
110. SPC Thomson seized all the cats and the two horses.
111. SPC Thomson testified that, despite the orders issued in July 2016, the only thing that had changed was the date (now being January) and the fact that a second window had been added. There was similar ocular and nasal discharge in July.
112. There was a similar buildup of manure in July but it was not frozen so did not have a hard, uneven surface.
113. SC Thomson testified when she ordered the Appellant in July 2016 to look after her cats and horses, the Appellant just told her to investigate the people who harassed her.
114. There were no litter boxes in July. There was one cat locked in a travel kennel in July as well. It was open mouth breathing and lethargic then as it had no access to water. Of the six emaciated cats she seized in July, one was euthanized for being in critical distress as it had laboured breathing and a build up of fluid in its abdomen.
115. On SPC Thomson's January 3, 2017 visit, she issued orders that the cat shed was not adequate. She spoke to the Appellant who made a variety of accusations and also said that the Appellant "got into it" with Dr. M as he wanted to remove some of her cats' teeth and she refused. SPC Thomson said in July 2016 she only took the 6 worst cats as the Society had no room for cats.
116. SPC Thomson went through several of the photographs in Tab 19 of Exhibit 5. She noted, among other things, the rather unusual vomiting of wood shavings, cats with teeth covered with so much tartar they looked like hunks of food. Many cats had inflamed gums.
117. SPC Thomson explained that although she had called the Appellant's neighbour Mr. M, in July 2016 for assistance, she did not do so again for privacy reasons as the Appellant had become upset with her in July for sharing information with her son and Mr. M.

118. In response to questions from the Appellant regarding whether or not cat footprints could be visible in snow, SPC Thomson said she had seen her own cat leave footprints in the snow on her own balcony.
119. SPC Thomson testified that she did recall seeing empty food bags.
120. When asked about SPC Thomson's refusal to show her ID, SPC Thomson said she was wearing her badge and the number was visible and when she identified herself, the Appellant responded with "Oh, it's you."
121. When the Appellant asked SPC Thomson if she was aware of the legal requirement for the RCMP to show identification, I did not require the SPC to respond. Nor did I require the SPC to answer questions about her knowledge about funding or a lack of it for the local Society branch, nor questions regarding an allegation of a weapons incident involving the local branch.
122. When asked if she recalled laughing when the Appellant suggested she need new glasses, SPC Thomson said she did not recall.
123. I did not require the SPC to answer questions from the Appellant about whether she felt bad when she killed animals.

X. The Appellant's Evidence

The Appellant

124. The Appellant stated that she was late in sending a package of full page colour photos of her "summer outdoor environment" as she had sent them Friday right before the hearing. She knew that it was a two-day express service but was hoping they would arrive as they were very important and she put the photos all over the community as an example of the work she had done.
125. The Appellant testified she had 65 years as a horse woman where she would improve the condition of horses and sell horses. She had two small horse businesses and she cares about animals.
126. With regard to cats, she stated that there were four kitties on her ranch and she won't kill kittens. She kept the females apart from the males but something happened and they got out, and then she had a lot of kittens. The Appellant said Pamela, an "intermediary," had spayed and neutered her kittens and had dentals and shots done, but one cat's eye was removed without her agreement. She testified that she kept the cats, they healed and she brought them back to her ranch from the veterinarian and the intermediary, and it must have cost \$60,000 to \$70,000, "the kitties were so expensive".

127. The Appellant specially built the 8 feet by 16 feet kitty house with a “double hollow floor” and double windows which slide open with screens and a sun flap at the end. She wanted a fast airflow but wanted it airtight so that if the door is opened it would completely exchange the air. The kitty body heat would heat the floor beams. The kitty doors were closed at night which was after 3:30 pm after she made sure they were all in and gave them a warm drink and something to eat. She did not want the coyotes or eagles to get her kitties. On the day they were seized, the cats were still soundly sleeping. When she takes the cats outside, she puts the frozen water inside the shed to thaw.
128. She testified that at 3:30 pm the cats have enough food to last until noon the next day, and the cats have their jackets and toys, food and treats.
129. The Appellant testified that the one cat was not in a small kennel but was in a large kennel as it was healing from “wobblies” and was already “half-healed.” That cat would stay with her at exercise break.
130. Every week or every five days she would clean out the cats’ shavings. There was a large blue kiddie pond with shavings in the cat shed that was used for litter and it was cleaned when needed. She tried to keep the cats warm and gave them lots of treats.
131. The Appellant said the cats all stayed just a few feet from each other as they were bonded, having been born together. Lots of people would go by the house and see the kitties. She stated that there are people around who lie about the kitties and she does put the cats inside the shed when she goes out.
132. The Appellant said the Society once broke into the kitty shed and bashed four kitties on the nose and frightened them “half to death”.
133. The Appellant said the cat shed had a three-layer roof that was water proof and was awaiting the final layer.
134. The Appellant testified that one cat, a tawny cat, sometimes likes “to go off pretending to be wild” but then gets hungry and comes back again. She said her cats only go outside for about an hour as it is warm inside the shed.
135. The Appellant wanted to name all her cats and did: Ruffy, Timmie, Diamond, Orion, Dusty, Bonnet, Silver Mist, Silver Boy, Bambi, Little Kitty, Rocket, Carillion, Tike, Ramaham, Little Trixie, Ruffian’s Boy, Ebony, Prince, Yin, Yan, Honeyfoot, Paddy, Mao, Nevada, Moggly, and Dixie, the cat who likes to pretend it is wild.
136. When asked by me why she named 26 cats when only 18 were seized, she told me the seized cats’ names were in there.
137. Regarding the horses, the Appellant testified that of the photo of the huge melanoma was not of her horse.

138. She said her horses had a double horse shelter at the bottom of a big pasture. She said her white mare would often go and have fun with the other horse and then would want to come into the middle section of pasture, and that if the Appellant did not move the white horse into the middle pasture, the horse would mope. The horse can access a box stall with a 12-foot ceiling and there are six rugs that are quilted and waterproof. When Espirit lies down she has 2 rugs and when Dunit lies down she has one. Both have shelters in the lower pasture. The Appellant said the white horse has an old injury that doesn't inconvenience her and her back dips, but the Appellant does everything she can to make life happy for the horse, she takes her for walks along the trails and the horse eats grass all the way to the creek and it offered buckets of water.
139. Each horse has an apple tree and the Appellant keeps the grass low to avoid a fire and grass doesn't grow in the winter. She feeds pellets and supplements and the blackberry bushes are green food and good fibre. She has tried everything to keep weight on the horse including corn oil. She also trims the horses' hooves an extra half inch as they have to walk to the creek. She knows what she is doing. She does not want to call "the millionaire's vet."
140. The Appellant said all the work done previously by the veterinarians on her kitties and horses was ignored by the "supposed" Society - "supposed" as she did not see ID.
141. The Appellant said she is old and has done everything she can. She stated that it has all been ignored. She said she has been extremely traumatized and it all started with SPC "Thompson's incompetence."
142. In response to questions from the Society, the Appellant stated that in July 2016 notices were left on the cat shed and she read them; they were directions on how to care for animals. She stated that the list from the Society has already been done. She said four cats were bashed on the nose during that visit. The vet, Dr. M, came out after the notices were issued, and examined the cats, but saw no ocular or nasal discharge and he did not say the shed was inadequate. She said it is not called a shed and that term is demeaning.
143. The Appellant said that SPC Thompson and Kristi King told "gross lies" and then maligned the kitty house.
144. The Appellant said that before the January 2017 seizure, she had only become aware of concerns about the kitty house just a few days before the January 11, 2017 seizure when the two [Society staff] were there with their "hideous lies" and "false audio."
145. The Appellant testified that the last time the cats saw a vet was in the fall with Dr. M when one cat had four teeth removed. She recalls telling Dr. M about the "wobblies" and she asked if she should bring in the cat or keep it in the kennel and do home care. Dr M said to monitor the cat and bring it in if anything changes. When the Appellant went to get

Dr. M's invoice to send to FIRB, it had two derogatory comments written on top, which were untrue, so she did not take it.

146. When Dr. M came out in August of 2016, she asked him if the sun flap was okay for a strong cross flow of air and he said it was fine.
147. The Appellant said her son, when he testified, said a fan was installed but he was mistaken, he just knew there was something to increase the flow of air and thought it must have been a fan.
148. The Appellant testified that the 8 feet by 16 feet double layer kitty house has R12 insulation, a cat box and on top of the cat box is more space so not to take away from the floor space. There are three kennels on the surface area. There is one recliner and a light weight plastic table and walkway behind the sleeping box but it is not for fat people; it is a private area.
149. She testified that Dr. M left her with ear medications in August 2016 but she doesn't have the records.
150. The Appellant said that manure gets into the horse shed. The horses poop in there and she chucks it in there with her wheelbarrow and then she started to leave the manure outside as it became too difficult to get in there with the wheelbarrow.

M.H.

151. M.H. is a transit operator and provided a letter of reference for the Appellant. She testified that she did not know why there was a hearing. She said she was kind of amazed at how often the Appellant packed large bags of food on the bus as she lived far from the bus, and they were 50 pound bags and she assumed the Appellant cared about her animals. She said she didn't know for sure where exactly the Appellant lived.
152. In response to my question about what type of food was in the bags, Ms. H testified that she is 50 years old and can read and she didn't pay much attention and it was dog food or cat food or "whatever" just animal food.

J.P.

153. J.P., the Appellant's son, testified that the Appellant often said she had to leave to go be with the kitties, and he saw the large blue kiddie pool she used for a litter box. In his opinion the cats were well cared for and his mother had a box containing an "extreme collection" of receipts for animal feed. The majority of her time was spent on her animals. He has helped deliver horse food in the past including mineral blocks, alfalfa, hay, pellets, "bags of something".

154. J.P testified that he does not know why this is happening again as the Appellant has made changes after earlier interventions from the Society and this process is long and drawn out and not productive for his mom and is emotionally stressful for her.
155. J.P said that whatever needs to be done gets done, and her animals' welfare is her priority. He agreed that his mom seeing pictures of her dismembered pets would be emotionally stressful but he has not seen the photos.
156. J.P testified that the current situation needs to be resolved to stop continual harassment and if conditions need to be met, he will help supervise that they be met.
157. In response to Society questions, J.P testified that he visits the Appellant's home several times a month and was inside the shed the last time there were issues, when the fan was put in. He has only ever held a couple of the cats, and he brings the horses treats once in a while. Once in a while he uses a machine to swamp out the pasture and that is the extent of his interaction with the animals. He swamped the pasture last fall and the paddock is swamped by hand by his mother.
158. In response to my questions, J.P estimated the wood shed for the cats to be 6 feet by 8 feet, maybe bigger. It is not a shed but a 16 x 16 cabin but only a portion is used by the cats. The cats were outside when his mom was home otherwise they were inside the cabin.
159. He is reasonably familiar with the horses and they are fat and happy, and one is old. It is not his job to examine the horses.
160. He said the paddock is cleaned by hand by his mom and he did not see any manure. He said the previous testimony he heard in the hearing sounded strange about the shed, but he had not gone inside for some time so he cannot say.
161. Regarding the cat shed, he did not put in the fan himself but a window was put in as ventilation was needed. He recalled the shed seemed clean and dry and smelled a bit like hay. Why there needed to be an increase in ventilation he did not know, there were concerns that he was not aware of.

A.S.

162. A.S. owns a thrift store which donates profits to local animal causes on the Sunshine Coast.
163. A.S. testified that she had never seen the Appellant's pets not cared for lovingly.
164. A.S. testified that at an earlier Society seizure, she noticed the disorder with which notices had been posted on the door, and saw kitty houses thrown around and drinking dishes stomped on and she considered the scene violent.

165. A.S. testified that she visited the Appellants' home one week before the current seizure and it was really cold. She went inside the kitty house and sat on the floor to give the kitties love and the kitties were purring and full of love and the place had a nice cat energy. None looked sick or unhappy and there were no bumps or ribs showing or fleas and no "snot" or eye "boogies". The horses had more than half the property and were not lame. Every time she visited, it was a pleasant experience and always clean and safe.
166. A.S. said the Appellant used to be a horse trainer and people still look to her for guidance and call her before spending thousands for people to come up from the Fraser Valley. However, she herself would definitely call a vet if she saw a problem.
167. A.S. said she has known the Appellant for 15 years and thinks she is awesome and what the Society did to her is awful and sending dismembered pet photos was emotionally upsetting.
168. There were no questions from the Society.
169. In response to my questions, A.S. estimated that the wood cat shed measured 10 feet by 12 feet and was part of an addition to a bigger cabin. It smelled like hay and sawdust with a "tiny hint of cat pee." She saw 17 cats. She saw a huge turkey roasting pan with dry food and saw water in another huge pan filled with fresh water, not murky when she shone a lantern on it. There is no electricity in the shed. She never saw the white horse's rear end.
170. In response to another question from the Appellant, A.S. said she would have noticed "a melon sized glob" on the horse when she petted it, and the lantern light was sufficient to see the kitties.

K.M.

171. K.M. is a neighbour. He testified that on the day of the seizure he saw clean shavings in the wooden shed and rows of travel cages including a large dog air travel kennel. He saw the double windows which were requested last year, and another window to improve air flow.
172. K.M. testified that last summer he was contacted by the Society to help the Appellant with her animals. He had a veterinarian attend. The two horses were examined and their teeth "floated". One horse had cancer but he doesn't know the exact diagnosis.
173. At the time of the current seizure, the Appellant called him in a panic and he attended and saw two people - "not local horse community people" - bring a stock trailer.
174. He had seen the cats often as they were often outside and looked happy and he did not observe them looking to be in distress. He testified that he and other neighbours "are all

animal people.” All of them keep an eye on the Appellant, dropping off hay, and the Appellant often feeds straight alfalfa.

175. K.M. testified that that he observed the Dun horse walking soundly yet the Society gave it a shot and it had to be a tranquilizer. The Dun looked very well fed.
176. K.M. testified that in the few weeks prior to the seizure, the Arab [white/grey horse] had been out quite a bit in the upper paddock having a good time. He stated that he keeps an eye on the horse with cancer.
177. He recalled a veterinarian named Dr. M examining the cats at the Appellant’s property and that no one could grab the kitties but the Appellant.
178. K.M. testified that he goes by the Appellant’s house every morning and that his own home with seven horses is about 500 – 600 feet away as the crow flies. He said that the Appellant’s animals eat before she does. She locks up her cats when she is away from the property to get food or go to the food bank and then lets them out on her return. He has seen the Appellant pack 50 pound bags of food from the bus and then walk her horses to the creek 1,000 feet away to get water or bring water back to the horses on a wheeled cart. He said the Appellant does not live in the Taj Mahal, but her cats look happy and she has a five-foot chain link fence to keep the animals protected. He said that the kitties are out 90 per cent of the time unless the Appellant is not there.
179. He said the Appellant is retired, incredibly fit and that her life is feeding and looking after her animals as best she can. The Society did not call him for help this time, but he is happy to help.
180. In response to Society’s questions, K.M. said he had never been inside the wooden shed and was just near the door at the time of seizure. He did not see staff wearing respirators.
181. He testified that he has paid veterinary bills in the past for the Appellant.
182. K.M. recalled the Appellant telling him she would euthanize the grey [white] horse if she was in distress.
183. In response to my questions, K.M. said he works from home and has a flexible schedule. He said that at night, the cats are locked up due to coyotes. He sees the cats outside when he runs his dog by in the morning and when he rides his horses.
184. K.M. said he has never examined the Appellant’s horse and has never been inside her shed but he was outside the shed during the veterinary exam and at the day of the seizure and he has never counted her cats but there are quite a few when he rides by.
185. He testified that all horses feel the frozen ground.

186. When I asked him for the last time he saw the Dun outside he said not the day before, and not the day before that and not the third day before that and he could not recall the last time he saw the Dun outside. He said “all I know” is for 2-3 days he has not seen it outside of the shed but it can walk in and out of the shed. He said he had seen the grey horse in the upper field during that time.
187. K.M. said with his own horses, he is meticulous and shovels the manure out each day.
188. K.M. testified that during the seizure, he saw clean shavings as the shavings were being kicked up. He saw bags of expensive shavings under the trailer and less than a bag would be used at any given time. The shavings in the wooden shed looked dry. All the cats were in the shed at the time of seizure. He said he did not see litter boxes nor did he see cats with crusty eyes or noses running nor see any manure or urine. In his view, none of the cats were in distress.
189. When I asked about how often he saw the Appellant carrying bags of feed, he said his schedule was erratic and the chance of him seeing the Appellant coming up the road with food would just be by chance and he had seen that over the past 25 years.
190. In additional questioning by the Appellant, K.M. said that when Dr. M attended the property, he did not mention its size, only that a window should be installed to increase ventilation. K.M. testified that a Society SPC told him the shed was not big enough whereas it was big enough at an earlier time.
191. When I asked why the veterinarian had recommended windows to increase ventilation, K.M. said he believed the air motion was insufficient and moving air was necessary for the health of the kitties.

XI. Submissions

The Appellant's Position

192. The Appellant first dealt with the issue of costs. She said that the costs were unreasonable because of the extreme deceit and libel and lies and it was obvious from the review that there was violence to small pets and she should not have to pay for that. The Appellant said the line of vehicles for transporting animals was not necessary and the truck to transport the horses was a rusty monstrous junker and that if the Society expected someone on GAIN disability to pay for that, they were out of touch with reality and were dishonest.
193. She submitted that when required by law to inform her of her cats' whereabouts and the Society did not, they impeded this process. She submitted that the Society was required to inform her of her cats' location within two days.

194. The Appellant said the SPC shoots kitties and commits violence and if Kristy King had any ID, she would like to know.
195. The Appellant said she expects honest decent work from the SPC and requests that the SPC be fired for libel, dishonesty, lying, fraud and fraudulent billing. She said the SPC failed to investigate violence toward her kitties in the kitty house when the Appellant repeatedly requested the SPC do so.
196. The Appellant asked that I do everything in my power to return her kitties who are emotionally calming and have a wonderful life and it was too bad her colour photos did not get to me in time.

The Society's Position

197. Regarding costs, the Society relies on the affidavit filed by Marcie Moriarty and the veterinary bills submitted. The Society submits that the amount claimed for care, room and board is reasonable, in accord with costs previously awarded by this Board, and that the costs it is claiming have actually been underestimated by the Society. The Society relies on the \$15 per day cost for the cats in this case without prejudice to the Society claiming a higher per day cost in other hearings.
198. The Society acknowledges that the Appellant does care for her cats and horses and did all she could and has relied on others but KM is only a casual observer and does not attend the property to provide care. The Appellant is unable to provide such care herself.
199. The Society submits that it is under no "obligation" to provide an opportunity for the Appellant to provide relief from distress to her animals if it is under the impression that she cannot but in this case, even so, there have been multiple opportunities provided to the Appellant through previous surrenders, by asking neighbours to assist, by having another rescue group take some cats, by being provided with orders and notices, and by having Society concerns explained to the Appellant who is either unable or unwilling to change things.
200. The Appellant seems incapable of acknowledging illness with the cats as the ear, eyes, and nose issues are readily apparent and the dental issues could be seen. Dental disease was present in most of the cats seized.
201. The Appellant was told the shed was inadequate on multiple occasions and she did add a window but that window is useless if not left open to permit airflow.
202. The ammonia smell was the same as in July 2016 and indicated no change while there was ample time and opportunity to make changes.

203. The Society noted that Dr. Steele reviewed the equine notes of Dr. Walton and agreed with everything except Dr. Steele would score the white horse's BCS lower than Dr. Walton.
204. The Society submitted that the horses could not access shelter due to a large build up of manure. The frozen manure indicated an issue with shelter and environment. Despite the Appellant's explanation that the sheds were manure storage sheds, both Dr. Walton and Dr. Wilson and SPC Thomson confirmed the horses had access to this area.
205. Although friends and neighbours testified the Appellant was caring and loved her animals, there was no evidence given about the potential care provided on a daily basis, or what would change if the animals were returned.

XII. Analysis and Decision

206. It is obvious to me that the Appellant sincerely loves her animals, all 18 cats and both horses. It is equally obvious to me that the Appellant feels she has expertise in animal care and has done everything possible for her cats and horses and has provided the best care she can.
207. It was just as obvious to me that the Appellant has had ongoing notions of violence being committed against her animals by the Society, none of which was borne out in the evidence. The Appellant has also clearly misunderstood some legal concepts, such as her mistaken belief the Society had two days to disclose the location of her animals. More disturbing for me was the fact that the Appellant believed some of her animals had been killed and that photographs of her dismembered pets had been sent to her, none of which was borne out by the evidence. Both Society and veterinary evidence supported the notion her animals, at issue in this seizure, were all still alive.
208. In my view, the material submitted by the Appellant needs to be addressed in the decision. The notices of appeal filed by the Appellant (there were two) contained some duplicate material. However, the Appellant had handwritten different comments all over each of them, including comments about incessant tooth removal and the handwritten allegation that "taking \$200,000.xx dollars worth of manymanymany teeth out of a small bunch of tame v. well tended pet kitties is animal maiming..." In the photocopies of x-rays of her cats' mouths, the Appellant has handwritten: "Where are all their teeth ?!!! Look what this horror did to my beloved pets! He is a malpractice sicko! Acquiring pets with libel, lies, swarming and fraud!"
209. On a photo of a Society intake form which has a line drawing of a prone animal (so notes can be made where there are wounds, masses, and lesions on the body) the Appellant has written "Malpractice pictures look like prey positions. Sicko."

210. On a photocopy of the photograph of the white horse's multi-lobulated mass on perirectal region, the Appellant has handwritten "Porn photo. Animal Porn! In Mail. Fraud photo in malpractice..."
211. None of these allegations was supported by any evidence. However, these allegations themselves do assist me in coming to a decision about the return of the animals, as I will elaborate on below.
212. In terms of the veterinary evidence, I found the testimony and reports of the three veterinarians quite helpful. I accept their reports and oral testimony, preferring Dr. Steele's evidence only when it conflicted with another veterinarian, as she was the equine veterinarian.
213. I did not find the testimony of M.H. or A.S. to be of significant assistance in resolving the issues before me on this appeal. With regard to the evidence of M.H., (who does not know where the Appellant lives) the evidence that the Appellant was carrying heavy bags of feed is of course some evidence that the Appellant tried to provide for them and cared for them, but it does not address the veterinary evidence that the animals were in distress. A.S.'s assertion that she would have noticed large masses, if they existed, on the horse clearly cannot be accepted given the actual masses on the horse. Her statement that she smelled a hint of cat pee conflicted with the ammonia readings, and her assessment of the cats' love and energy did not meaningfully rebut the evidence of distress. I did accept some of K.M's testimony. However when the Appellant said the cats are locked up from 3:30 pm until the next day and he said the cats are out 90% of the day time, I preferred the Appellant's testimony.
214. Based on her testimony, the veterinary reports, and the evidence as a whole, I accept that SPC Thomson accurately portrayed the conditions of the animals and property and conversations with the Appellant. I accept her testimony. In saying this, I accept that the Appellant provided what she subjectively believed were accurate portrayals of her animals, the property and conditions, and of interactions with the Society and I accepted much of her evidence. However, where the evidence of the Appellant and SPC Thomson conflict, I prefer the SPC's evidence.

Seizure of the animals

215. 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.

216. Section 1(2) must be read with s. 11 of the PCAA:

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

The 18 Cats

217. In order to find that the cats were in distress, it is not necessary for me to go through each cat, since I have the benefit of the veterinary evidence, which inspected each cat, and because the cats were housed in common conditions, which pertain to the definition of distress.

218. I find that the cats were deprived of water. According to two veterinarians, Dr. Wilson and Dr. Walton, there was no water available for the one caged cat, and only frozen water available for the 17 loose cats in the shed. Dr. Walton testified that the cattery Code dictated that water should be available at all times, and although the cats showed no sign of dehydration, the fact that water was only periodically available met the condition that at times there was no water available. The cats were in distress, as a group, due to being deprived of water.

219. I find also that the cats were deprived of adequate shelter and space. According to both Dr. Walton and Dr. Wilson, the space available for the cats in the cat shed was inadequate. According to Dr. Walton, the cattery Code dictated a minimum of 27 square meters for 18 cats, not the 15 or so square meters offered by the cat shed. In any event, it was not recommended by the veterinarians that 18 cats ever be housed together as it could encourage fighting in a small space which offered no escape. Dr. Wilson testified that many of the cats showed signs of being in fights. Her report stated:

Even when two cats share a household, each cat should have their own food bowl, water bowl and one litter box per cat plus one extra box; all with enough room for these to be separated from the other cat's to prevent resource guarding, conflict, physical altercations and stress. Situations like this increase interspecific competition, fighting and stress. Stress and fighting decrease the immune system, increase illness, and invariably cause emotional distress. Although it is possible that some cats at the top of the hierarchy may have been able to get enough food if it was provided (despite our not finding any food at the time of inspection), there is absolutely no way that all of the cats could in that competitive situation.

220. While there was testimony from the Appellant and some of her witnesses that the cats got to go outside (contrary to SPC Thomson's testimony that no cat prints were seen in the

snow outside the shed), the Appellant herself testified that she locked her cats up for the night starting at 3:30 in the afternoon and all the way through to the next day, with enough food to last until noon. As the cats were locked up mid-morning when the seizure occurred (the Appellant testified the cats were still sleeping), this is a very significant period of confinement. I note that the Appellant testified that the cats only spent an hour outside of the cat shed by their own choice. She referred to time outside as an “exercise break.” I find the cats were in distress as they were denied adequate shelter and space.

221. I find the cats were also denied adequate ventilation. Dr. Wilson, Dr. Walton and SPC Thomson all testified to the high ammonia levels, with Dr. Wilson saying the levels of 20-50 ppm were far higher than the maximum of level of 2 ppm of ammonia in a cattery. Dr. Walton complained of breathing difficulties while he was inside the cat shed. SPC Thomson testified she wore an industrial breathing mask. The Appellant’s witnesses KM and her son JP testified they did not enter the cat shed. Only AS said that she went in the shed and did not note the smell of ammonia. I do not accept her testimony in light of the veterinary evidence and the number of cats which suffered with nasal and ocular discharge which, Dr. Walton said, was a likely result of the poor ventilation. I find the cats were in distress due to a lack of ventilation.
222. I find that the cats were not protected from excessive cold. Both veterinarians and the SPC noted the below zero temperature inside the barn. Dr. Walton and Dr. Wilson noted ice crystals or icicles forming on the inside of the ceiling and walls of the cat shed. Dr. Walton testified that the minimum temperature set out in the cattery Code was 15 degrees. The drinking water was frozen in the cat shed. The one cat contained in the cat kennel could not even huddle with another cat for warmth. I did not find the Appellant’s testimony that the cats’ body heat warmed the floorboards inside the shed to be compelling given the appearance of ice crystals and frozen drinking water in the shed. I find that the cats were in distress due to not being protected from excessive cold.
223. I find that the cats were deprived of veterinary care. Most of the cats suffered from severe dental disease with many unable to wait until the conclusion of this hearing to receive dental care. Dr. Walton said, and I accept, that dental pain in cats can be a debilitatingly painful condition. Several required pain control and antibiotics pending full dental with extractions. It was evident to me that the cats as a group were in pain and were suffering with their dental disease. The photographs of the inside of some cats’ mouths was distressing for me to look at as the build-up of tartar created large lumps of brown attached to the cats’ teeth. These were so large that I asked if the brown clumps were actually large pieces of food stuck on the teeth. The wobbly cat had not received veterinary care despite the Appellant saying she told a veterinarian about the cat and he advised her to monitor and report if there were changes. The Appellant testified that she did not take the wobbly cat to the veterinarian and that the last consultation was in July 2016, so she ought to have known the cat was not getting better. The Appellant did permit one cat to have dental work in July 2016, but also testified that she had not received veterinary care since July 2016. Her cats had, variably, dental disease, and ear debris that in one case was so excessive it attached to the lining of the ear and tore off when

removed, having blocked the ear canal completely. Dr. Walton testified that other cats also had debris in their ears and were receiving ear medication. Most of the cats had nasal and ocular discharge and some signs of upper respiratory infections yet none received veterinary care. One cat had a tear all the way through its eye lid. These are all cats that the Appellant said were born on her ranch and that she had cared for and that had bonded as a group since birth. I find that the cats were in distress due to being denied veterinary treatment.

224. Finally, I find that many of the cats were sick, injured, or suffering. As I have already said, many suffered from dental disease, ear, nose and eye discharge, wobbliness in one cat, an eyelid tear in one cat and, according to Dr. Wilson, many showed signs of injury due to fighting. I find that the Appellant's assertion that the cats were all bonded and stayed within a few feet of each other. Whether or not this was sometimes true, I find it was certainly not always so given the signs of injury due to fighting and given the Appellant's own testimony that one cat liked to pretend it was wild and leave the group for days at a time. I find that the cats were in distress due to being sick, injured, or suffering.

The 2 Horses

225. The two horses were in differing degrees of health. One, the Dun, was heavy and had no health issues and did not lack of water, veterinary care, ventilation, light, space, or exercise. However, as will be noted below, this horse, along with the other horse which was deprived of water, were both kept in unsanitary conditions.
226. The health of the white horse, also described as grey, was not good. This horse was thin and lame and had a mass of growths under her tail which clearly provided her with discomfort as she rubbed her back end causing a laceration which became infected and produced pus. She lifted her tail to keep the tail from causing her pain. She flinched when touched. Dr. Steele testified that the horse's lacerations and melanomas should receive daily care and infection needed to be treated and cleaned. The horse had small dry feces, which are not normal. The Appellant testified that she did all she could to help the horse put on weight including feeding her corn oil, yet she did not seek veterinary advice. I find that the white horse was in distress as she was deprived of adequate veterinary care.
227. Both horses were deprived of adequate shelter and were kept in conditions that are unsanitary. Dr. Walton, Dr. Wilson and SPC Thomson all noted the volume of manure present in the horses' stalls. Every piece of floor was covered in manure, reaching an estimated two feet in some areas, according to Dr. Walton. Photographs of Dr. Walton show him holding a stick deep in manure. Dr. Wilson testified she sunk 8-10 inches in manure when she walked in it. Both veterinarians testified that the horses sought shelter in the manure covered stalls, and the white horse had fecal staining on all four legs. Hoof prints were seen throughout the manure indicating the horses spent time in all areas of the stalls. The veterinarians said that the manure could harbour bacteria and parasites. The veterinarians said the manure should be cleaned out daily or almost daily and even the Appellant's witness KM said he is fastidious in cleaning his horses manure daily. It is

simply not believable that the horses use the stalls as toilets and then leave the stalls, as the Appellant testified. Even the Appellant said she found it too difficult to get her wheelbarrow into the manure filled stalls and had taken to dumping the manure at the entrance to the stalls. As the manure had frozen, the surface was slippery and uneven and caused the horses to walk tentatively to prevent slipping. I find that the horses were both in distress as they were deprived of adequate shelter and were kept in conditions that were unsanitary.

228. Regarding both horses having adequate food, I find that they did not. I find this despite the fact that one horse was heavy. The legislation doesn't say the animal has to be deprived of food to meet the definition of distress; it says deprived of adequate food. Both on-site veterinarians and the SPC describe the greenery around the property as being eaten. There was no grass, having been chewed. The blackberry bushes leaves were all eaten. Any grass under the derelict vehicles had been reached by the horses and eaten, despite the potential for contamination. There was no hay seen and the Appellant provided no receipts for adequate hay for the horses. There were plenty of pellets but the equine veterinarian Dr. Steele said that pellets would be adequate without grass or hay if supplemented with grains and minerals. The Appellant did not provide any proof of feeding such supplements, and she provided inadequate information to indicate whether or not the alfalfa pellets she was feeding were "complete". Dr. Steele said that to her knowledge Alfa-Teck, the food fed to the Appellant's horses according to her photographs, is not a complete food.
229. Dr. Wilson said that the heavy horse could be heavy due to adequate calories yet still lack adequate nutrition. Compellingly, Dr. Wilson describes smaller, dryer feces than she would expect from horses eating more balanced diets with fibre as she said horses need ample water and fibre. A lack of fibre could cause colic, which the white horse did suffer from 36 hours after seizure, although the cause and timing of the source of colic could not be determined. The Appellant admitted the white horse was getting thin and even tried giving corn oil. Considering all the circumstances of the horses' health and environment, as well as all the other circumstances of this case, I find that the two horses were in distress due to being deprived of adequate food, however I also note that if I am wrong on this one cause of distress, there were still other causes which were sufficient to warrant the seizure of these two horses.

Return of the Animals

230. Having determined that the seizure of the 18 cats and 2 horses was justified, I now consider the return of these animals.
231. 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.

232. 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.

233. And I also note these comments made by the British Columbia Court of Appeal in *Ulmer v. British Columbia Society for the Prevention of Cruelty to Animals*, 2010 BCCA 519 at paras. 37-38, in responding to the argument that the Society must always give an owner "another chance" before it seizes animals:

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

234. The word "promptly" suggests a consideration as to whether the person can or will take the necessary action.

235. The Appellant has a clear history of keeping cats locked in a shed. They were locked in a shed in July 2016 when six were seized and one euthanized as being in critical distress. They were locked in a shed in January 2017. Even if, as KM and the Appellant claim, the cats were out during the day, it was, as the Appellant testified, for a very short time. The Appellant has been told that the cat shed was inadequate for 18 cats. She has been told there is inadequate ventilation. KM and the Appellant's son were both aware of this complaint, yet the ventilation was not improved enough to remove the risk caused by a lack of ventilation. In fact, it appears the Appellant does not understand why there is a need for ventilation, saying that she put in the window, so she has done what is required. Her son supports this view, suggesting that his mom has made changes after earlier interventions from the Society and this process is long and drawn out and not productive for his mom and is emotional stressful for her. There seems to me to be the view that if she does what she was told, there is nothing more for her to do to provide care for her animals, despite signs of distress from her animals to the contrary.

236. The Appellant's testimony, practice and the handwritten notes on her appeal material indicate to me that she shuns most veterinary assistance or advice. She seems incensed that her animals need to have any dental work done, seeing such work as opportunistic and financially rewarding for the veterinarians rather than seeing the dental work as medically necessary to prevent suffering in her pets. Her handwritten comments on her submitted material, namely:

“taking \$200,000.xx dollars worth of manymanymany teeth out of a small bunch of tame v. well tended pet kitties is animal maiming...” and in the photocopies of the x-rays of her cats mouths, the Appellant has handwritten “Where are all their teeth ?!!! Look what this horror did to my beloved pets! He is a malpractice sicko! Acquiring pets with libel, lies, swarming and fraud!”

indicate to me that this Appellant would be unable to appreciate when and why veterinary care is required, and make it foreseeable that she is likely be unable to work with a veterinarian to provide adequate care for her animals which need care.

237. The Appellant has no plan whatsoever to change anything if the animals are returned. She thinks they are all happy and healthy and loved. The Appellant cannot see how sick her cats were. She is unable or unwilling to see how the way she housed her cats caused many health issues for her cats, and she was unable or unwilling to remove the source of distress for her cats.
238. Her subjective view of these happy bonded cats is not the reality that they live in. There is inadequate reliable water, below freezing temperatures, inadequately available food, inadequate ventilation, inadequate shelter and a totally inadequate ability to properly care for her cats, in their best interests. Despite the fact that the Appellant speaks of giving her cats warm milk, toys and kitty treats, they actually need veterinary care, water, shelter that is the correct size and of sufficient warmth. I have no confidence that the Appellant can provide any of these things, since she has been told many times before.
239. I also do not think that her son or neighbour would be able to provide the level of assistance she would need to meet the needs of her animals. The son visits regularly but does not interact much with the cats or horses. He does not understand why there was a ventilation issue and had never been in the shed. While he has mucked out the pasture with a machine, Dr. Wilson described that the volume of manure must have taken months to accumulate. As the son said he visits several times a month, and he apparently had not noticed the accumulation. The neighbour KM, who is supportive of the Appellant, only sees the animals as he travels past the Appellant’s property and has never been inside the cat shed. He may be agreeable to paying for some veterinary care, as he has done in the past, but he has certainly not guaranteed payment of all bills, and in any event the Appellant seems averse to availing her animals of such veterinary care. KM and the Appellant’s son do not have the intimate daily oversight of the Appellant and her animals that would be necessary to have any value in this case.
240. The Appellant is oblivious to the needs of her white horse, denying the presence of the lacerated vulva and multiple melanomas causing discomfort, pain and infection. She denies the fact that her horse has this medical issue to this degree. Both her son and two of her witnesses who have visited her home both deny ever having checked the horse.

241. The Appellant is unable or unwilling to see how her white horse has suffered and when she noticed it losing weight, she chose to try her own concoctions and remedies rather than seek veterinary advice.
242. The Appellant cannot see how both her horses are at risk from the unsanitary manure covered stalls which provide shelter, the lack of greenery for the horses to both eat, the unstable footing caused by the frozen manure and the risk her horses run should their buckets of water ever freeze to the point that her horses cannot break through the ice.
243. I want to address the horse Dunit specifically, as the horse was a bit heavy and had no health issues despite the unsanitary conditions and lack of adequate food. I did consider returning this one horse, but found that I could not be confident it would not find itself again in distress, since the Appellant has failed in the past to provide veterinary care, has failed to provide continual access to water, and has failed to provide adequate shelter and has failed to provide protection from unsanitary living environment. In this regard, as previous decisions have emphasized, the definition of distress is not limited to actual pain and suffering – it includes concerns that would foreseeably give rise to such suffering. I am satisfied that, if returned, this horse would find itself standing alone in knee deep manure, with uneven footing, with inadequate shelter from the elements due to a volume of manure, with an owner who would be unable or unwilling to seek veterinary care should anything behalf this horse, which I find likely given her view on water, nutrition, and care. I find that in this case, this horse found itself in better condition than the other horse more through luck or circumstance than because of any actual care provided by the Appellant. To return this horse would, in my view, in the circumstances of this case, foreseeably return it to a situation of distress.
244. I have no confidence that if the horses or cats were returned they would remain free of distress. In fact, the opposite is true. Based on the testimony and material submitted, that if the horses or cats were returned, they would each return to distress, some faster than others, and some to a more harmful degree than others, but I am certainly convinced based on all the circumstances of this case that each and every animal would be at serious risk of finding itself in distress if returned. I find that it is not in the best interests of any of these animals to be returned.
245. I am convinced that, in the particular circumstances of this case, the Appellant does not deserve any more chances to promptly take steps that will relieve the distress in which her animals have found themselves. She has not taken the steps necessary as she has been ordered to in the past. She has not found adequate shelter for her cats. She has not sought veterinary care for her horses. She has not provided access to water at all times. More persuasively, she does not even seem to be aware of the distressful state her animals are in, so could not possibly be able or willing to address these issues.
246. I recognize that the Appellant did allow one of her cats to have dental work last July when ordered to by the Society and when paid for by another, and I do recognize that when told to improve ventilation, she added a window to the cat shed, but these are not enough. She

cannot wait for an animal crisis and for others to tell her what to do and then pay for it before she is willing or able to address the needs of her animals. Even with the window, she was unable to keep the window open to improve ventilation ever after having it installed.

247. In considering whether or not there were any conditions I could impose that would allow me to return her animals, I could not imagine any that would protect these animals from distress. I have no confidence that this Appellant could adequately comply with ordered conditions necessary for the 18 cats or two horses to be free from distress if returned to the Appellant's care. This includes conditions requiring monitored by the Society. The Appellant has a disturbing, combative, and altered view of the Society, its staff and its ability to perform its duties to such an exaggerated level that any monitoring would surely be ineffective and would fail.
248. Finally, I cannot see how the Appellant's unique view of the world, which so often contrast with reality, can permit her to act in the best interests of these 18 cats and two horses, despite her love for them.
249. For all these reasons, I find that I cannot return any of the animals seized to the Appellant, as I find they would all be returned to distress, and that in my view, there are no conditions possible that would adequately protect these animals, in their own best interests.

XIV. ORDER

250. 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).

251. It is my order that pursuant to section 20.6(b) of the *PCAA*, the Society be permitted in the Society's discretion, to destroy, sell or otherwise dispose of all of the animals.

252. It is my hope that the Society is able to find loving homes for all 18 cats and for the two horses.

XV. COSTS

253. 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.

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

Position of the Parties

255. The position of the Appellant is that the costs are unreasonable as the Society committed deceit, fraud and libel, amongst other things, and that veterinary care was carried out for beneficial financial reasons, and in any event someone in receipt of income assistance should not have to foot the bill.

256. The position of the Society is that its costs are reasonable as noted in Marcie Moriarty’s February 28, 2017 affidavit:

The Society is a non-profit organization. It is almost exclusively funded by donations from private individuals. Operations such as relieving animal distress by taking animals into the custody of the Society are part of our organization’s statutory mandate. However, holding animals strains our resources.

The Society incurred and continues to incur expenses with respect to the Animals, including costs associated with providing the Animals with food, shelter and other care.

Therefore the Society is seeking costs in the **total amount of \$32,889.76**, pursuant to s. 20 of the *Prevention of Cruelty to Animals Act*, R.S.B.C. 1996, c. 372 as follows:

- A. Veterinary Costs: \$13,814.35
- B. SPCA time attending to seizure: \$241.95
- C. Housing, feeding and caring for the Animals: \$18,833.46
- D. TOTAL: \$32,889.76

The veterinary costs are found in the Binder as follows totalling **\$13,814.35**:

Tab 22, p. 571	\$ 18.07	Tab 22, p. 603	\$ 39.74
Tab 22, p. 572	\$ 114.50	Tab 22, p. 604	\$ 1,599.38
Tab 22, p. 573	\$ 39.74	Tab 22, p. 605	\$ 15.28
Tab 22, p. 574	\$ 156.02	Tab 22, p. 606	\$ 85.20
Tab 22, p. 575	\$ 106.98	Tab 22, p. 607	\$ 8.69
Tab 22, p. 577	\$ 18.96	Tab 22, p. 608	\$ 13.26
Tab 22, p. 578	\$ 16.70	Tab 22, p. 609	-\$ 93.79
Tab 22, p. 579	\$ 1,712.37	Tab 22, p. 611	\$ 7.85
Tab 22, p. 581	\$ 16.70	Tab 22, p. 612	\$ 40.31
Tab 22, p. 582	\$ 406.50	Tab 22, p. 614	\$ 916.47
Tab 22, p. 584	\$ 221.06	Tab 22, p. 618	\$ 0.18
Tab 22, p. 585	\$ 111.15	Tab 22, p. 619	\$ 122.04
Tab 22, p. 587	\$ 995.74	Tab 22, p. 620	\$ 135.04
Tab 22, p. 588	\$ 189.04	Tab 22, p. 621	\$ 1,690.00
Tab 22, p. 591	\$ 1,761.72	Tab 22, p. 622	\$ 296.94
Tab 22, p. 593	\$ 82.05	Tab 22, p. 624	\$ 241.50
Tab 22, p. 594	\$ 18.96	Tab 22, p. 625	\$ 359.21
Tab 22, p. 595	\$ 16.70	Tab 22, p. 626	\$ 359.21
Tab 22, p. 596	\$ 39.74	Tab 22, p. 627	\$ 220.08
Tab 22, p. 598	\$ 954.14	Tab 22, p. 628	\$ 251.58
Tab 22, p. 599	\$ 83.51	Tab 22, p. 629	\$ 314.58
Tab 22, p. 601	\$ 15.06	Total	\$13,814.35
Tab 22, p. 602	\$ 96.19		

The Society also incurred labour costs respecting its special provincial constables' investigations and seizure of the Animals. I estimate the costs associated with investigating, seizing and transporting the Animals at approximately **\$241.95** (\$16.13 per hour x 5 hours (approx.) x 3 SPCs).

In addition, the Society's costs to house, feed and care for the Animals exceed **\$18,833.46**, which have been calculated as follows:

Costs for Cats: 71 days (January 11, 2017 to March 22, 2017 (being the anticipated date of the BCFIRB decision)) x \$13.07/cat x 18 cats = **\$16,703.46**

Costs for Horses: 71 days x \$15.00/horse x 2 horses = **\$2,130.00**

The sum of \$13.07 *per day per cat* is broken down as follows:

Food cost feeding Hills Science Diet: \$1.00/day

Staff time at a rate of \$16.13 *per hour*: \$8.07/day

(1) 10 minutes kennel and cat cleaning: \$2.69

(2) 10 minutes morning feeding: \$2.69

(3) 10 minutes evening feeding: \$2.69

Overhead Costs: \$4.00/day (see below)

Regarding overhead costs (item (c) above), the Society's Shelter incurs costs to maintain the facility, a portion of which costs directly benefited the Animals. This includes expenses associated with utilities (heating/electricity); general facility upkeep and maintenance; administration costs including ordering supplies and managing staff (cleaning and food supplies for animals); taxes on land use; maintaining the Society's computer office and other management systems; interacting with the Animals throughout the day beyond the mere feeding and cleaning of kennels including ensuring their emotional contentment; interacting with, directing, training and coordinating volunteers and other staff members, all for the benefit of the Animals (note: staff costs noted in this paragraph are over and above staff costs associated with any one particular animal, which are discussed under "staff time" above).

I estimate overhead costs allocated at about \$4 per day per cat. I acknowledge these costs are estimates only. Actual total costs are very difficult to calculate absent advice from an accountant. The costs to retain an accountant to determine the actual costs will outweigh the benefits of potentially recovering boarding costs from the Appellant.

257. It was made clear to the Appellant that care costs was an issue on the appeal. The Appellant's position in opposition to the costs was that the Society's claim was based on lies and deception. Beyond that argument, which I reject, she did not dispute the reasonableness of the amounts from a cost of care perspective. In view of the Appellant's position, and having independently considered the Society's claimed costs in this case, it is my view that all the costs claimed are reasonable, including the veterinary costs which are supported by actual invoices.

XVI. COSTS ORDER

258. I order that the Appellant pay the amount of **\$32,889.76** to the Society as the reasonable care costs incurred by the Society with respect to the animals.

Dated at Victoria, British Columbia this 20th day of March, 2017.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Corey Van't Haaff, Vice Chair
Presiding Member