

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 5 DOGS

**BETWEEN:**

ERNA McGAFFIN

**APPELLANT**

AND

BRITISH COLUMBIA SOCIETY FOR THE  
PREVENTION OF CRUELTY TO ANIMALS

**RESPONDENT**

**DECISION**

**APPEARANCES:**

For the British Columbia  
Farm Industry Review Board

Corey Van't Haaff, Vice Chair  
(Presiding Member)

For the Appellant:

Self-represented

For the Respondent:

Andrea Greenwood, Counsel

Date of Hearing:

October 3, 2018

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 (*PCAA*).
2. The Appellant appeals the September 6, 2018 review decision issued under s. 20.2 of the *PCAA* by Marcie Moriarty, Chief Prevention and Enforcement Officer for the British Columbia Society for the Prevention of Cruelty to Animals (“the Society”). The review decision arose from the Society’s seizure of 6 female dogs on August 18, 2018. One of those dogs, Ditta, was surrendered by the Appellant after the seizure, and euthanized. I also note 7 kittens were surrendered.
3. While the appeal concerns the fate of 5 dogs, “Ditta” was part of the seizure and the circumstances she presented are relevant to the overall findings I make, as are the kittens’ condition in general.
4. 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.
5. For reasons that will be explained in detail later in this decision, I have decided that I will not require the Society to return any of the dogs.
6. The Society claimed reasonable care costs which were appealed by the Appellant. The issue of costs is addressed later in this decision, but I have modified costs.

## **II. The Society’s review decision**

7. 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).
8. 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.
9. 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.

10. Ms. Marcie Moriarty, Chief Prevention and Enforcement officer for the Society, issued her written reasons dated September 6, 2018 after her review of this matter. Her written reasons state in part (quoted exactly as they appear):

I am satisfied that you are the “person responsible for the Dogs” who were removed on August 18th, 2018.

I am satisfied that SPC Edge reasonably formed the opinion that the Dogs were in distress, as defined by Section 1(2) of the Act.

As a result of all of the above, I am satisfied that SPC Edge reasonably formed the opinion that the appropriate course of action was to take custody of the Dogs in order to relieve their distress and;

A Notice of Disposition with respect to the Dogs was served in accordance with Sections 18 and 19 of the Act.

Accordingly, I conclude that the seizure of the Dogs took place in compliance with the Act.

I direct your attention now to the Information to Obtain (ITO) and the reasoning behind why the Dogs were seized. During SPC Edge’s inspection on August 17th, she relayed to you the following welfare concerns and issued you a notice for:

- Unsanitary living areas (including the house and shed) containing urine and feces to be cleaned within 7 days;
- Inadequate ventilation within the shed where the Dogs were living to be rectified immediately;
- Medical concerns for animals on your property including ‘Dida’ and kittens that needed to be addressed by a veterinarian immediately.

During this inspection you mentioned to SPC Edge several times that you could not afford vet care for your animals, which is why you groomed the dogs yourself. You also stated that they ‘only needed a bath’. After discussions with SPC Edge, you

decided to surrender 7 kittens to the BC SPCA, and although they are not subject to this decision, it is important to consider that all of the kittens had nasal and ocular discharge and required medication. The veterinarian who examined the kittens surmised that they were all likely suffering from Feline Upper Respiratory Infection and ear mites.

Although you did take Dida to the vet that same day, you did so afterhours and therefore, would have been charged additional fees that you disclosed you could not afford. You did not actually allow a veterinarian to examine Dida, and instead purchased medicated shampoo that was not prescribed by a veterinarian at that time. While at the clinic, you made a follow up appointment for Dida for 5 days later, but you did not make any appointments for the remaining kittens in your care. As you failed to provide immediate veterinary care for your animals as was required to relieve their distress, a warrant was obtained by SPC Edge.

During the warrant, SPC Edge made the decision to remove not just Dida, but five other dogs. These dogs were seized due to unsanitary living conditions, extremely high levels of ammonia and inadequate ventilation in the shed. These issues had been previously identified by SPC Edge and not only were they not addressed when she attended with the warrant, but the issues had been made worse by a heater having been turned on in the shed. This demonstrates to me that either you do not have the ability to address the environmental concerns or you are unable to recognize these poor conditions and their impact on your animals.

All six dogs were taken to Williams Lake Veterinary Hospital and were examined by Dr. Galatiuk. The following observations were made:

- All of the dogs had grade 3-4 dental disease;
- Approximately 4-10 teeth were infected and would need to be removed;
- Dida had severe skin infection, severe eye infection, enlarged lymph nodes, grade 3 dental disease with several infected teeth;
- All dogs were prescribed medications for ear, eye and tooth infections.

It is clear from the veterinarian's examination that all of the dogs were in varying stages of neglect and that this neglect appeared to be long standing. The findings also suggest that the dogs were not receiving regular veterinary care. As you have not provided me with any evidence, such as previous veterinary records, to contradict this conclusion, I am left with relying on the veterinary examinations at the time of the seizure.

As an animal owner, it is incumbent upon you to ensure that your animals are free from distress at all times. This responsibility is not put on hold if you are having financial challenges, and although I can sympathize that you are one person taking care of so many animals, it is still your obligation to ensure that every animal receives the care required. If that care is not possible, you should be making responsible decisions to either downsize or seek assistance. What is not acceptable is to allow your animals to suffer with untreated medical conditions or to live in conditions that are detrimental to their health and well-being.

What is also concerning is that prior to surrendering Dida, SPC Edge had to explain in detail over a lengthy conversation that Dida's prognosis was not good, and that euthanasia would be the most humane course of action. The fact that you were apparently not aware that Dida was in such an advanced state of poor health is troubling, as it leads me to believe that you would again either not be able to notice this level of distress or would not be able to afford to rectify this distress should other animals in your custody reach this condition.

In reviewing the evidence, it appears that you were at best overwhelmed by the number of animals in your care, or at worst, unable to recognize the level of care required to keep animals free from distress. In your submissions, you suggest that "the Society can be assured that they [the Dogs] will be well taken care of." However, you offer no care plan to accompany this assertion and no evidence to suggest that your current financial situation has changed so that you would be able to address the significant health concerns of the Dogs.

After taking into consideration all of the above, I believe that it is not in the best interest of the Dogs to be returned to your custody. I am also concerned about the animals remaining in your care, and would urge you to focus on these animals' needs to ensure they are free from distress and do not require subsequent seizure. As mentioned above, I am concerned that you may not be able to recognize when your animals need assistance and thus, am hoping that you are able to reach out for support from friends or family to assist you in the future. Should you feel that you are unable to continue care and are not able to find such support, please do contact the BC SPCA.

11. Ms. Moriarty thus determined in her review that the 5 dogs seized would not be returned, leading to the appeal to BCFIRB.

### **III. The appeal provisions**

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

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

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

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.

#### **IV. Preliminary matter**

13. Both parties confirmed that they each believed that costs formed part of this appeal although it was not specifically raised in the notice of appeal, and I proceeded to include costs under that understanding.
14. There were different spellings of the dog’s name Ditta but I am satisfied that all misspellings refer to the same dog.

#### **V. Material admitted on this appeal**

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

##### **Exhibits:**

- a) BCSPCA September 6, 2018 Decision (**Exhibit 1**)
- b) Appellant September 7, 2018 Notice of Appeal filed (**Exhibit 2**)
- c) Appellant September 7, 2018 filing fee Financial Services Branch (**Exhibit 3**)
- d) BCFIRB September 10, 2018 NOA letter (**Exhibit 4**)
- e) BCSPCA September 10, 2018 request to change hearing date (**Exhibit 5**)
- f) BCFIRB September 10, 2018 response to changing hearing date (**Exhibit 6**)
- g) BCSPCA September 10, 2018 response Ms. Greenwood as counsel, no change to hearing date required (**Exhibit 7**)
- h) BCSPCA initial disclosure (Tabs 1-22) (September 12, 2018 by email and courier) (**Exhibit 8**)
- i) Written Submissions of BCSPCA (September 12, 2018 by email and by courier) (**Exhibit 9**)
- j) Affidavit #1 of Marcie Moriarty (September 12, 2018 by email and courier) (**Exhibit 10**)
- k) BCSPCA Expert witness contact form for Dr. Cheri Galatiuk (**Exhibit 11**)

- l) BCSPCA Witness contact form for SPC Carla Edge (**Exhibit 12**)
- m) BCSPCA updated document disclosure index (September 26, 2018 by email and courier) (**Exhibit 13**)
- n) BCSPCA Tabs 23-26 (**Exhibit 14**)
- o) BCSPCA Tabs 27-29 (October 1, 2018 by email and courier) (**Exhibit 15**)
- p) BCSPCA Further Updated Document Disclosure Index (**Exhibit 16**)

## **VI. The Society's material and witnesses**

16. The Society submitted, as part of its material, a report written by veterinarian Dr. Cheri Galatiuk who attended the seizure on and wrote an undated, unsigned letter which stated, in part:

On August 18th, 2018 I was asked to examine 7 kittens and 6 small breed dogs removed from an owner's property. The following were their physical exam findings:

The kittens were all estimated to be 8-12 weeks in age. All kittens had crusted black/brown debris in both ears which was suspected to be ear mites. Each kitten examined had a degree of yellow green nasal and ocular discharge. One kitten (kitten #5) was noted to have such severe ocular discharge that its eyes were crusted shut. This discharge was assumed to be a part of feline upper respiratory disease, a combination of viral and bacterial causes. There were two kittens (#4 and #7) that were thin but the rest were in good body condition. All kittens had normal vitals except kitten #4 which was hypothermic with a temperature of 36.8C. All kittens ate readily when food was offered except kitten #3.

Out of the dogs examined, Dazzle, Jinny, Jiggles and Jivey had very similar physical exams so will be grouped together. It was estimated that these dogs were all about 4-6 year female Maltese crosses. These 3 dogs were all poorly groomed with sparse matting and long hair around their eyes. They all had grade III-IV/IV dental disease. I would suspect in each of their mouths, there was approximately 4-10 infected teeth that would need to be removed. The rest of their physical exams were within normal except it was noted that Jiggles had Grade III/IV luxating patellas.

Brownie was estimated to be an approximately 9 year old female Maltese cross. She was overweight, poorly groomed as the other dogs mentioned above. She had grade III dental disease and several teeth missing. It was estimated that she only had approximately 10 teeth remaining.

Dita was estimated to be an approximately 7 year old female Maltese Cross. She had several severe disease processes going on as well as being poorly groomed with overgrown toenails. She was found to have severe bacterial otitis externa, severe keratoconjunctivitis sicca with secondary infection and corneal pigmentation, severely enlarged prescapular lymph nodes as well as moderately enlarged submandibular lymph nodes. She had grade III-IV dental disease and approximately 6 teeth were suspected to be infected. The most significant finding was her skin. She had alopecia on about 1/3 of her body with a severe thickened, crusted dermatitis colonized with both yeast and bacteria.

*Dr. Cheri Galatiuk*

17. Dr. Galatiuk is a DVM graduating in 2008 from WCVN and is a veterinarian at Williams Lake vet hospital who has worked with small animals (cats, dogs exotics) for ten years. Over the past 5 years she has worked on 5-6 abuse cases for the Society and has done 2 on-site evaluations.
18. She confirmed her written report as accurately reflecting her observations and opinions.
19. Dr. Galatiuk physically examined the 7 kittens. Each had eye and nose “snotty” discharge and all had upper respiratory infections. She testified that she did not take the photos at page 76-82 but all photos accurately reflected how she observed the kittens “to a varying degree” while noting that some kittens’ eyes were worse before the photos as they could not open their eyes.
20. She explained that a combination of virus and of secondary bacterial infections, spread cat to cat, were referred collectively as upper respiratory infections (URI) passed through the environment in close quarters and are exacerbated by stress and poor living conditions. Poor air quality make them worse.
21. She opined that the kittens suffered from severe URI and guessed the infections were from the environment. She estimates the URI had existed for at least several days if not several weeks but most likely several days. She said a non-expert should visually notice the symptoms, as the disease progresses from mild symptoms like sneezing and small crusted discharge, to a decrease in hunger as secondary bacterial infections begin, to copious purulent discharge.
22. Dr Galatiuk testified she examined all 6 female dogs. They were poorly groomed and most had matts and long nails. She testified that Ditta’s nails were so long they were lifting her toes off the ground, and that it would take more than a month “for sure” to get to that stage. She stated that the dogs were abnormally groomed and that if they had been groomed once a month, they would not be in the state they were in when she saw them. The matts raised health concerns for underlying skin disease as the matts trap moisture. This particular breed of dog required weekly to monthly brushing and grooming with a clip and bath every three months.
23. The female dogs had grade 3-4 dental disease. Dr. Galatiuk explained she grades the entire mouth not each tooth. Grade 1 is mild gingivitis and minimal tartar. Grade 2 is moderate gingivitis and tartar but teeth can be saved at this stage. Grade 3 is very severe gingivitis and tartar and there is some question whether or not teeth can be saved. Grade 4 is severe gingivitis and tartar and the teeth are not saveable. She grades by physical examination that includes touch and visual inspection.
24. The dog “Jivvy” had dental work performed after the seizure by another veterinarian. Two teeth were extracted as opposed to her estimation of 4 teeth. The veterinarian who extracted them had the benefit of x-rays and a sedated dog for a fulsome exam, and that

veterinarian noted that tooth 208 had 55-60% of bone thus did not yet extract the tooth, as extraction was not required until it reached 50% bone loss, she said.

25. Dr. Galatiuk recalls Ditta's breath being quite smelly and said an observant dog owner would know there was a problem with Ditta. She did not recall whether the other female dogs' breath smelled. However, she explained home care is required to prevent dental disease either by brushing or other mechanical means or by additives or through vet care every 6-12 months. She said that dental disease is very common but not normal and small breeds progress to grade 4 over time without proper care. Once tartar accumulates, it pushes the gum line back and allows root infections. Some dogs are more prone, and some lower quality food equates with a faster progression of dental disease.
26. Ditta had dry eyes and bilateral ear infections. Her eye problems were visibly apparent. She had large areas of hair loss and her skin problem was evident with some areas showing skin that was thick with hair absent. The skin was crusted with debris. Dr. Galatiuk estimated that it took years to get as bad as it was. The dog would have suffered itchiness and rashes and required management of symptoms. This dog, she said, needed to be on medication and special food for life. Because the medications have side effects, the dog would have required regular intervention by a veterinarian.
27. Dr Galatiuk testified that dog skin has a different pH than human skin so human shampoo could not be used as it could make a skin condition worse. Ditta also needed eye drops. The discharge from Ditta's eye was stuck on and around the eye ball. There was some corneal pigmentation and that took time to occur, at least one month. Dr. Galatiuk opined that Ditta's condition was not properly managed in this case, although it was possible for an owner to have managed it.
28. Regarding the outstanding dentals on the female dogs in Tab 22, the dental disease was chronic and would cause pain even if the dog was still eating and drinking. Dental disease is a painful condition with other health consequences. Higher grade bacterial infections can spread in the mouth and can spread to kidneys and the heart.
29. The veterinary records for the male dog Murg, who was not part of the seizure and who she did not see, show that he was diagnosed with a grade 3 heart murmur, and a dysfunctional valve (the grade of murmur refers to the loudness), detectable when you listen with a stethoscope. To diagnose further and to treat, an ECG and x-ray are required, as a murmur is the tip of heart disease and can lead to heart failure, so x-rays are needed so treatment can be determined. The medical record shows the chest x-ray was declined.
30. With regard to ammonia levels, Dr. Galatiuk explained there is a kennel code that explains the volume of air to be exchanged is dependent on the number and size of dogs and the weather. However, she testified that 50-100 ppm of ammonia is not acceptable, even if a dog goes outside to use the bathroom. In humans, even 5 pp causes airway irritation and chronic inflammation. Any level of ammonia is unacceptable she said.

31. Dr Galatiuk said floors in a kennel should be covered with impermeable coverings so fluids don't soak into the floors. She recommends concrete or vinyl.
32. The Appellant did not have any questions for Dr. Galatiuk but re-stated a few points of her own evidence.
33. In response to my questions, Dr. Galatiuk testified that there were no physical symptoms of suffering from poor ventilation apparent on the exam of the dogs. There was no health concern upon exam of these dogs due to matting and all the dogs had thin coats as a matter of breeding so the matts themselves were smaller so in her opinion the coats were moderately matted.
34. Upon reviewing the caption on page 71 under the photograph, Dr. Galatiuk advised that she did not write any of the captions and that this caption in particular regarding ear mite buildup was inaccurate.
35. When asked whether the condition of the dogs was due to anything that the Appellant did or did not do, Dr Galatiuk said the dental disease could have been prevented if the owner had done something and that little dogs are more prone to dental disease. The owner could have had the dogs examined by a veterinarian and followed those recommendations but did not. Dr Galatiuk testified that she did not see any negative repercussions to the dogs from the ammonia and that although the ammonia could have made Ditta's eyes and skin worse, it was not the primary cause of Ditta's ailments.
36. Dr Galatiuk said although the other 5 female dogs did not suffer air quality health issues currently, the risk was real as was the risk from the poor grooming and from ammonia.
37. Dr. Galatiuk was asked if it was her recommendation to do the fecal exam on the dog slated for euthanasia and she said it was not. There is no correlation between the euthanasia and the fecal lab work.
38. Dr. Galatiuk testified that Ditta would have been in chronic pain due to her skin.

*Special Provincial Constable Carla Edge*

39. SPC Edge testified she is in her 4th year as a Special Provincial Constable with the Society and was a probation officer for 6 years prior to that. She testified it was her decision to seize the 6 female dogs.
40. She testified the Society received a complaint regarding the housing the dogs were kept in with the strong smell of ammonia. She first attended the Appellant's home on July 11, 2018. She testified that she left a notice to contact the Society (mentioned in the ITO) but no contact was received.
41. On August 17, 2018 SPC Edge met with the Appellant and detected the strong smell of ammonia coming up the stairs and heard many dogs barking. The Appellant agreed she

could come in and inspect the dogs and premises. SPC Edge also went into the “puppy palace” - the name of the outside structure beside the house, where the female dogs were primarily housed - accessed by going through the house and out the back door.

42. Entering the puppy palace, she detected the strong smell of ammonia, saw the floors were worn, and noted the air conditioning was off and no windows were open. No heater was on.
43. Ditta had significant hair loss and scratched every few steps the dog took. Ditta’s armpit looked inflamed which concerned SPC Edge.
44. In another outbuilding, SPC Edge smelled ammonia and saw maybe a dozen kittens and cats but some scattered as they seemed semi feral. She saw chickens but was not concerned with their situation. The ammonia in the shed was overwhelming. She testified that when she saw the kittens, one was not even moving lying on the floor, its eyes and nose were so crusty.
45. SPC Edge said that the Appellant’s husband had recently died and SPC Edge was trying to work with the Appellant, but her concern was for the 6 female dogs and the kittens with URI. She tested the ammonia in puppy palace with the Appellant’s permission and the colour turned black. It was so bad she could not stay in the building. It was one of the worst air quality situations she had ever encountered.
46. SPC Edge ordered immediate vet care of Ditta and the kittens and she offered to permit the Appellant to surrender the animals. Seven kittens were surrendered, and more kittens remained.
47. She ordered the Appellant to take Ditta and some remaining kittens to the veterinarian immediately and follow recommendations. The Society shift manager called the Williams Lake vet clinic that evening to determine whether Ditta received the care she had ordered, and was told that the Appellant was there buying shampoo but had refused to have Ditta looked at by the vet due to cost. No kittens were taken in to the veterinarian.
48. SPC Edge then applied for and received a warrant as she was concerned for Ditta and the female dogs as the Appellant had not sought immediately veterinary care as ordered.
49. On August 18, 2018, SPC Edge executed the warrant and found puppy palace with the door closed and the heat turned on. She determined that the environment had not been immediately rectified so she removed the 6 dogs. Ditta had not received any vet care.
50. On August 23, 2018 SPC Edge delivered the written reasons from the Society to the Appellant and discussed with her the need for Ditta to possibly be euthanized but the Appellant was not ready to allow Ditta to die. SPC Edge saw puppy palace had been painted.
51. On August 24, 2018 the Appellant agreed to surrender Ditta to be euthanized.

52. On September 12, 2018 SPC Edge re-inspected the male dogs and puppy palace and recommended two dogs, Buddy and Murg, see a veterinarian within 7 days. The ammonia smell in puppy palace was strong.
53. The Appellant did not have questions of SPC Edge but reiterated that she did not get the July 11 notice and one feral cat always had a broken ear.
54. In response to my questions, SPC Edge confirmed it was shelter protocol that when a large number of dogs that lived together were brought in, the Society does a communal test and random sampling for contagious disease and worm load.
55. Nothing concerned her about the weights of dogs other than Ditta was thinner than the other dogs.
56. SPC Edge confirmed that she wrote the photo captions.

## **VII. The Appellant's material and witnesses**

57. The Appellant testified under oath. She did not call any witnesses or submit any documents in support of her appeal. The Appellant testified that she lost old veterinary records in the wildfires of 2017 and thought that the Society could access any veterinary records itself if it wanted to.

### *The Appellant*

58. The Appellant testified that she needs her dogs back as they are family.
59. The Appellant testified that she was in the process of grooming them when the SPC arrived, and admitted they were "pretty neglected" for a while, which was unfortunate. She testified she has now cleaned puppy palace by painting the walks and floors, and planting grass in the yard.
60. She said there is always enough food and she also feeds treats daily. There is always water and she cleans up after the dogs 2-3 times daily.
61. Veterinary records were lost in the 2017 wildfires, but she knows each of the dogs' birthdates. She testified there is no carpet on the front deck contrary to the SPC statement, and said it was unlikely the floor was sticky unless she had just fed the dogs a treat of oatmeal which she sometimes does in the morning. She said the ceramic heater was on as she was out there in puppy palace working and about to bathe the dogs and they get chilly, so she heats things up.
62. Things are not as they seem, she said, and her dogs were not thin. She said she would definitely take better care of them this time if they were returned.

63. When her dogs had puppies, they went to the vet's as puppies and they have always been healthy. She used to breed dogs but that is over. No females have been spayed.
64. In response to questions from the Society, the Appellant testified she has owned the seized dogs since birth and they were each born in her care. Some of the male dogs she also had since birth. The female names are Dazzle, Jiggles, Jinny, Jivey, and Brownie plus Ditta. Two of the males being discussed are Murg and Buddy, and Murg had come from the coast and was 14 years old. She keeps the six females in puppy palace and the six males in the house.
65. She has owned dogs most of her life and took them to the veterinarian quite a bit as puppies but not much since. She or her late husband dewormed them and gave shots regularly, but the dogs had no regular veterinary care annually after puppies. Jiggles did have eye surgery. She would be guessing if she said how often any of them saw a veterinarian.
66. She did not ask for veterinary records in relation to this appeal as she thought the Society could access the records. She testified that Ditta was seen in Prince George in July 2017 as part of the wildfire response when Ditta was put in a humane society's care, and their veterinarian recommended antibiotics and shampoo for Ditta's skin. Ditta had not been to a veterinarian for more than a year before that. The Appellant testified she did shampoo Ditta and the dog improved for a while but when the dog did not fully improve she did not go seek veterinary care. At the time of seizure, the Appellant said the skin looked the same as it had in 2017 and she was not daily bathing; she was unaware of a particular brand of shampoo that may have helped.
67. The Appellant testified that her routine was to check the eyes and ears of dogs at monthly bath times admitting it should be done "oftener." She might check different dogs at different times, at random. She has twelve dogs and used to keep records of baths but they are no longer current and are "pretty old" so they were not submitted. She admits she might miss a dog but she testified she does check their nails. She thinks she trims them once a week and last night she bathed the 6 male dogs and did all their nails but she does not know when Ditta's nails were done.
68. She does not brush her dogs' teeth as it is hard for her to do. She tried brushing Buddy's teeth once but the dog did not like it – much like the dogs' nails, but she persisted on those. She had not tried to brush any other dog's teeth but was willing to try. She bathes each dog once a month and tries to trim and brush their coats, but she testified it is hit and miss, and she might miss a place. The boy dogs were recently groomed by someone else at the request of the Society and are now very short. She cannot always afford to take the dogs to the groomer so she does it herself.
69. She takes the dogs for a walk in her front or back yard and that's it. They run around in the back yard by themselves and the puppy palace has its own yard with on-demand access. They can go anytime, she said. That is where she planted grass. There was carpet there to keep the mud down. She replaced the carpet every year or two.

70. Her personal financial situation is she has been saving money for years and does not currently work as she is retired. She agrees she told the SPC that she had no money to take her dogs to the veterinarian as it is pretty expensive to get their teeth done.
71. She agrees that on August 17, 2018 she refused a veterinary exam for Ditta as it was too expensive as it was after hours. She felt that it was an unreasonable extra charge and asks why the veterinarian did not see the dog if her dog's condition was so urgent. She did not try to go see the other veterinarian close by. She did try to make a veterinary appointment for Ditta several days later and it was up to the veterinarian to have done it sooner -- and could have done sooner -- if her dog needed urgent attention.
72. She currently has a half dozen chickens and there are quite a few cats roaming around the yard, maybe 10, she thinks. She has 6 dogs, 6 chickens, and 10 cats and if they required veterinary care she would take them to the veterinarian gradually, one at a time. If one got sick she would take it to the veterinarian who practices close by (almost in her back yard).
73. The Appellant did receive orders from the SPC for the other animals to clean and trim nails, which has been done. She was ordered to get veterinary care for Buddy and Murg and had an appointment for them. She disagrees with the veterinary medical record which recommended extractions of teeth as she understood she was waiting for antibiotics to work and she had her dog on antibiotics for a nasal discharge and for teeth and a heart murmur which the vet did not say was related to the teeth. He also recommended eye drops and the vet did not tell her when to follow up. The dog is now running around the house and she will wait and see what the vet says regarding the dog's teeth. She thinks the dog is doing fine and will take it to the vet maybe when the eye drops are all gone. The dog is 14 (Murg) and she does not want the vet treatment to be too hard on him.
74. When asked about Murg's recommended eye removal, the Appellant denied being told that and said the vet told her to finish the antibiotics first.
75. The kittens are on drops and she has to take them back again for boosters and vaccines and she might neuter them. The cats are not kept in kennels.
76. She did clean the blankets and get rid of the fuzzy toys that smelled, as the SPC recommended. She said she had been washing them once a week in any event. When asked how she knows when blankets need washing or replacing, she said she does not smell them, so she judges by look but she replaces them maybe once a year or less.
77. She painted the walls and floor in the puppy palace and washed the windows with glass cleaner and a little bleach, and she took her pictures down. The ventilation is an air conditioner and a heater which is enclosed so it cannot be touched by the animals. The AC was not running when the SPC was there as the heat was on.
78. She opens the door for ventilation. She said the SPC told her the puppy palace needed to be vented right away but she was just about to be out there herself to bathe the dogs.

79. She typically kept the female away from the males to prevent mating but they did go for walks together. The females lived in puppy palace and the males in her house. She agreed that she usually did not open the window in puppy palace but she could.
80. If the dogs were returned, they would stay in puppy palace or she could keep them in the back room of her house like when they have a bath, or for longer. Her plan is that the females would still sleep in puppy palace.
81. She reviewed the estimates for the female dogs' dental and veterinary care at Exhibit 8 Tab 22 and agreed that she would get this done if the dogs were returned, and would have to use her savings, and her daughter will help too. She said she has access to money. She said the amount of the estimated vet bills were pretty high.
82. She said she never got vet care before as she never noticed anything wrong with their mouths and she does sometimes check their mouths and never noticed bad breath. She does not get annual check ups. She does give her dog bones for dental care but did not know if they were working. She said she did not take her dogs to the vet for dental care as it is too costly.
83. Ditta was seized and the veterinarian recommended euthanasia and the SPC told her the dog's skin was that bad, but she did not think the dog was ready for euthanasia at first, as she did not want the dog to go. She ultimately surrendered Ditta.
84. The Appellant testified she used to breed the dogs and sell the puppies for \$350 each and would sell 4-5 puppies a year. She has no plans to have puppies in 2018, saying "probably not, look at the mess I'm in" (referring to the seizure), but she won't have the female dogs spayed. She said it would not be a disaster if they got pregnant, and if she had more puppies, she could sell them.
85. In response to my questions, the Appellant said that her male dog's nose had not bled in the past week and there was only a bit of discharge half way through the medicine. The drops for the eyes are pretty much gone and the eye is now clear. She had noticed, prior to the Society directing her to take the two dogs to the vet, that Murg's eyes and nose were weeping so for about three days she was wiping and observing. She said she is the only person taking care of her animals as her daughter does not live close by and her husband recently died, and she does a fine job most of the time caring for the animals.
86. Her plan for veterinary care for the female dogs if returned is to make an appointment and have the dentals done but it would take her two to three days to make the appointment and she would take the first available appointment and she would be able to pay for it and get it done.
87. When she took Murg in when he was sick with his eye, the medical record noted that she declined the eye extraction and declines chest x-rays. She said she would get those done if she has been told, so I said the medical record indicated that in fact she had been told. She

said she forgot, that she wanted to do things one at a time. She said the females will get vet care because she is saying so.

88. She does monitor Buddy's breathing for a minute at a time when he is asleep, but he does not sleep. When she monitors the dog his breathing rate is about 17. She watches him to gauge his energy level. He can go into the yard okay but comes right back in. He breathes fast when he gets exercise and if he started breathing really fast and hard, she would take him to the veterinarian, "probably right away." She said she did not know he had a heart murmur and did not know the veterinarian wanted an x-ray.
89. She reviewed her care of Ditta's skin for the past year saying she used "people shampoo" and the skin seemed to not get better. She could not do much for the dog. She knew something was wrong when she felt the dog's skin. It was a struggle for her to know what to use but she did not go to the veterinarian.

### **VIII. Submissions**

#### *The Appellant's position*

90. The Appellant's position is that she needs her dogs back and would definitely take better care of them this time. She still has 6 male dogs and wants her 5 female dogs back and has improved the puppy palace where the females live. She said things were not as they seem and her dogs are precious to her, and that she can access money for their care. She says she will get the dentals done, even though it is expensive. She says the panel can rely on her commitment to get the dentals done as she said she would.
91. Regarding the Society's request for costs of care, the Appellant said the cost of dental care is high and is expensive.

#### *The Society's position*

92. The Society's position is that the dogs were in distress (as were cats that were surrendered and the one surrendered dog which was euthanized due to its medical condition). The Society asserts that the Appellant failed to alleviate the dogs' distress due to lack of funds or lack of awareness of the distress, even when directed to do so by the Special Provincial Constable (SPC).
93. The Society points to distress as including unsanitary living conditions, inadequate ventilation and medical concerns, and the Appellant is unable to recognize or address either environmental or medical concerns. As part of the review process, the Appellant offered no plan for the care of the animals, and that her current improvements, such as painting, are inadequate.
94. The Society said not every animal seizure is egregious and overwhelming but, in this case, the SPC took action as she was not confident the Appellant would recognize the need for care or seek care or be able to afford care. The Society determined the dogs were in

distress and the Appellant was overwhelmed by the number of animals she owned and would continue to allow them to be neglected and in distress if returned to the Appellant.

95. Additionally, the Society in its oral submissions said that regarding care costs, it erred in including \$219.25 for euthanasia and lab testing as the dog had been surrendered, so asked me to remove that cost.
96. The Society also said that the dental estimates, which are included in the costs, had not yet been performed and would not be incurred prior to the anticipated date of my decision, and if rights to the dogs were assigned to the Society, it would be up to the Society if it wished to incur the costs. Counsel said the dentals should be done but wouldn't say they will be done. I questioned her further, asking if she was attempting to say the dentals would not be done as the dogs may be euthanized and she said absolutely not, the Society will get the dental treatment for these dogs then adopt them out. She said the Society had no objection to me removing the anticipated dental cost, but she was advocating for their inclusion as the responsibility lay with the Appellant, but in past hearings, anticipated cost of care have not been considered.

## **IX. Analysis and decision**

### *Assessment of witness evidence*

97. I accept the veterinary evidence as presented. There was no opposition to that evidence, which was, at its core, a concern about the significant health risks faced by the remaining dogs if not properly cared for. The heart of this appeal therefore does not turn primarily on the veterinary assessment of the dogs and their necessary treatment plan, but on whether the Appellant is willing or able to see the condition her dogs were in and to take proper care, including timely veterinary care, to address distress in the animals.
98. I also accept SPC Edge's assessment of the situation of distress, as discussed in more detail below.
99. I will simply note here however, and without attributing any blame, the practice of adding captions to photographic evidence should not in my view be encouraged, but if it does take place the captions should be attributed to the author, and should not make veterinary conclusions.
100. I accept that the Appellant is telling the truth as she sees it; that she simply did not notice the condition of her dogs' mouths, and although she did notice Ditta's skin but did not think there was anything she could do. This does not contradict any of the other evidence.

### *The seizure*

101. My first task is to determine whether the Society justifiably formed the opinion that the dogs were in distress when they were removed.

102. “Distress” in s. 1(2) of the *PCAA*, a protective statute, is a specialized term. The *PCAA* defines “distress” as follows:

- 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.

103. The criteria listed in s. 1(2) – any one of which is sufficient to satisfy the definition – constitute “distress.” The factors in ss. 1(2)(a), (a.1) and (a.2) reflect serious risk factors that foreseeably give rise to suffering and harm if protective action is not taken. While they must not be trivialized in their application, they also do not require the Society to wait until the worst happens. Thus, a dog can be physically healthy but still in distress where there is a foreseeable risk of harm given the conditions to which it is exposed.

104. In this case, the totality of the circumstances satisfies me that the animals were in distress.

105. First, there is the lack of ventilation. SPC Edge testified, and I accept, that the ammonia was some of the worst she has encountered. Although I accept the Appellant’s explanation of having the heater on and windows shut in August to prevent her dogs from getting a chill when being bathed, I do not believe that helped these dogs. Dr Galatiuk testified that the risk due to ammonia exposure was real and such physical reactions to ammonia could be expected. One need only to look at the 7 kittens which were surrendered, photos of which I viewed and Dr Galatiuk testified about, where eyes were shut with infectious goop and noses were crusted and infected, to know that the possibility of the air quality, at some point, becoming bad enough to affect the dogs was very real.

106. There is also the lack of proper veterinary care. Ditta suffered for months at least with a painful itchy and likely unbearable skin condition without the Appellant even thinking to see a veterinarian. Ditta’s condition was so serious that the dog had to be euthanized due to the severity and compounded nature of the skin and dental and eye problems. I also note that none of the sick kittens had received veterinary care, both according to the veterinarian (while describing the active condition of the URIs) and according to the Appellant (who testified that other than care at birth, she did not take her animals to the veterinarian even though according to her, one veterinarians was so close, he was practically in her back yard).

107. Adding to all this is the evidence that five seized dogs has varying levels of severe dental disease causing pain, together with the veterinary evidence that a responsible owner would have taken steps to determine dental health through visual inspection or dental exams by a veterinarian. The Appellant did not do any of this, and this is especially concerning given the number of dogs and cats she had, the condition of many of these animals and the fact that as recently as 2017, the Appellant was using these animals as a revenue source by breeding them.

108. I accept that the Appellant was trying her best to groom the animals, and by her own admission she missed some spots on some animals, and some animals altogether. I recognize that she tried, but when I viewed the photos of the matts on some of these very cute little dogs, and the long nails on Ditta, I am reminded that the onus is on the Appellant to care for her animals adequately, not simply to just try. For that reason and given that Dr. Galatiuk testified that there was a real risk of skin disease or irritation from the poor grooming and the matting, I find that these dogs as a group suffered from neglect.
109. For these reasons, I find that the removal of all of the 5 female dogs was justified on the basis that they were in distress.

*Return of the 5 dogs*

110. Having determined that the seizure of the 5 dogs was justified in the totality of the circumstances of this case, on the grounds of distress due to lack of adequate ventilation, neglect, and lack of necessary veterinary care, I now consider whether the 5 dogs should be returned or returned on conditions.
111. The *PCAA* describes the duties of persons responsible for animals:
- 9.1 (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.
- (2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.
112. 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.

113. 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.

114. As made clear in *Ulmer v. British Columbia Society for the Prevention of Cruelty to Animals*, 2010 BCCA 519 at paras. 37-38, section 11 of the *PCAA* allows the Society to consider the circumstances as a whole. It does not require the Society always to give a person a "second chance" or numerous "second chances".

115. The Appellant was only given one day, between August 17 - the day she received notice to take one dog and one or more kittens for veterinary care and to follow veterinary recommendations - and August 18, 2018, the day of the seizure. This might cause the Appellant to think that she was not given a second chance, or even a full first chance.
116. I disagree. I only need to look at Ditta as an example of the Appellant's failure to seek and follow veterinary advice. Despite being ordered to take Ditta to the veterinarian (which I would suggest should have been initiated by the Appellant well before the SPC's orders, given the long-term nature of the skin and eye problems), the Appellant went through the motions of taking the dog in but refused to spend the money to actually have the dog seen by a veterinarian. Worse, citing the cost, she admits she made no effort to call a second veterinarian – the one almost in her own back yard – to see if she could afford his veterinary services for her dog in distress.
117. This lack of ability or interest in seeking veterinary care was not an isolated case, as evidenced by what happened when the Appellant was ordered to take two of her male dogs to the veterinarian and follow recommendations. The notice added that she needed to follow veterinary recommendations particularly regarding Murg's teeth and eyes. She took Murg and Buddy and had them examined. Dr. Ree at the Animal Care Hospital noted in her medical record that the Appellant attended on September 14, 2018, and that Murg had bad breath and severe dental disease with advanced bone loss, tooth root, suspected abscess, and oronasal fistula. The Appellant declined dental cleaning and extractions. The Appellant also declined chest x-rays to determine diagnosis and treatment regarding a heart murmur that was detected. The Appellant further declined the veterinarian's recommendation to removal of the eye, described as a "dried out brown colour globe."
118. And I am reminded of the terrible medical condition of the 7 kittens which were surrendered, with the veterinarian's account of some having eyes crusted shut and purulent nasal discharge for untreated upper respiratory infections.
119. The Appellant does not have a meaningful plan for these dogs if she gets them back. Despite knowing they need dental care, she thinks she can take them in in stages. It was in similar stages that she groomed the dogs, missing matts, long nails and in Ditta's case, thickened skin and lack of hair. I have no confidence that the Appellant will seek veterinary care when it is needed, or that she will follow veterinary recommendations as they are recommended. The Appellant herself acknowledges the reality that in her words, the dogs were "pretty neglected" yet she has not developed any type of plan to address the prevention of these dogs returning to a state of neglect and distress.
120. Despite the terrible condition of Ditta which went unchecked for at least a year by the Appellant's own admission, she did not seek veterinary care. Instead she applied a human shampoo with no awareness as to its potential for damage. It is deeply troubling that Ditta suffered for more than a year with itchy painful skin treated with an irritant regularly. The Appellant may claim ignorance of the pH levels of the shampoo, but this only shows that even when she recognized the skin problem she did not seek veterinary advice, even when the dog's condition did not get better.

121. The Appellant also seems to have no awareness of the risks associated with the air quality and ventilation in the puppy palace where she proposes to return the 5 dogs. The ammonia was undetected by the Appellant (and even so with her cats with their eyes crusted shut – this did not provide her with sufficient motivation to check ventilation in a close-by outbuilding) and she admitted she was not even willing to smell bedding or blankets to determine if they were soiled. Her painting of the floor which apparently did not combat the ammonia was not sufficient to positively impact air quality. The Appellant seemed to have little awareness of exchange of air, need for fresh air, and appropriate temperatures given the heater in August with windows closed.
122. I have no confidence that this Appellant would do anything to care for her animals, beyond feeding and watering and loving them unless she was told to do so by the Society. Her minimal efforts did not relieve the distress her animals experienced.
123. I want to be clear that, on the issue of return, this case did not turn on any one factor but on the totality of the circumstances. Given the totality of the circumstances, and having considered the Appellant’s evidence with care, I have no confidence that this Appellant would be able to keep her 5 female dogs from returning to a situation of distress. While the Society will not undertake further dentals until there is a final disposition (and I am keenly aware that this dilutes somewhat the argument of how urgently necessary it is if they can wait a month) I am satisfied that those dentals are necessary and will be done in the Society’s care. On the other hand, I am equally satisfied that, if returned to the Appellant, the strong likelihood is that these other four dogs’ mouths would languish and worsen with no relief in sight as I do not have confidence that the Appellant would get the dentals done. This Appellant has not and will not notice the condition her animals are in or follow all recommendations of her veterinarian.
124. I conclude that this Appellant, having already failed to provide for her animals and permitting them to fall into distress, would foreseeably continue to fail to provide for her animals if they were returned with or without conditions. I cannot think of a condition stronger than “follow veterinary recommendations”, which she already did not follow when already directed to by the Society. I conclude that these 5 female dogs should not be returned to the Appellant.

**X. Order under section 20.6(b)**

125. Section 20.6(a) and (b) 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;

126. It is my order, pursuant to section 20.6(b) of the *PCAA*, that the Society be permitted in its discretion, to destroy, sell or otherwise dispose of the 5 dogs. I understand that the Society will attempt to place these dogs in suitable homes.

## XI. Costs

127. Section 20.6(c) of the *PCAA* reads:

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

(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).

128. The Society relied on the Affidavit of Marcie Moriarty regarding the issue of costs. Based on a, October 18, 2018 BCFIRB decision release date, the Society is seeking costs in the total amount of **\$10,868.56**, pursuant to s. 20 of the *Prevention of Cruelty to Animals Act*, R.S.B.C. 1996, c. 372 as follows:

- a. Veterinary costs, including estimated dental treatments: \$5,349.36
- b. SPCA time attending to seizure: \$227.50
- c. Housing, feeding and caring for the Dogs: \$5,291.70
- d. TOTAL: \$10,868.56

129. The veterinary costs, including estimated dental treatments, total **\$5,349.36** (\$1,553.32+\$3,796.04) and are broken down as follows:

| <b>Invoices</b>   |                    |                    |                   |
|-------------------|--------------------|--------------------|-------------------|
| <b>Tab/Page #</b> | <b>Description</b> | <b>Name of Dog</b> | <b>Total</b>      |
| Tab 22, p. 95     | Inv. 114296        | Dida               | \$ 565.76         |
| Tab 22, p. 100    | Inv. 114608        | Dida               | \$ 219.25         |
| Tab 26, p. 124    | Inv. 115269        | Jivey              | \$ 768.31         |
| <b>Total:</b>     |                    |                    | <b>\$1,553.32</b> |
| <b>Estimates</b>  |                    |                    |                   |
| <b>Tab/Page #</b> | <b>Description</b> | <b>Name of Dog</b> | <b>Total</b>      |
| Tab 22, p. 96     | Est. 8197          | Dazzle             | \$ 704.22         |
| Tab 22, p. 97     | Est. 8196          | Jinney             | \$ 966.98         |
| Tab 22, p. 98     | Est. 6730          | Brownie            | \$1,007.45        |
| Tab 25, p. 121    | Est. 6761          | Jiggles            | \$1,117.39        |
| <b>Total:</b>     |                    |                    | <b>\$3,796.04</b> |

130. The Society incurred labour costs respecting its special provincial constable's investigation and seizure of the Dogs. I estimate costs associated with investigating, seizing and transporting the Dogs on the seizure date at approximately **\$227.50** (\$22.75 per hour x 5 hours (approx.) x 2 Society staff).
131. The Society's costs to house, feed and care for the Dogs at the Society's premises is at the sum of \$17.07 *per* day x 62 days (August 18, 2018 to October 18, 2018 (being the anticipated dated of the BCFIRB Decision)) x 5 dogs = **\$5,291.70**
132. The Appellant's position is that dental costs are high. She makes no other argument.
133. The Society submits that these costs are very difficult to calculate absent advice from a forensic accountant. The costs to retain a forensic accountant to determine the actual costs will outweigh the benefits of potentially recovering boarding costs from the Appellant.
134. I accept the Society's claim that one invoice for veterinary care for Ditta's euthanasia was included in error, and I shall deduct the amount of \$219.25.
135. I also appreciate the Society's comment that it will not object to my exclusion of the future cost of dental care for 4 dogs, though it advocates for its inclusion.
136. I do not find it reasonable to assess some future cost, which may be necessary but not imminently so, given that the work was not done prior to resolution of this appeal. While I appreciate that the Society has provided an estimate, this is not a sum certain on which it would be fair to make the Appellant legally liable. Without deciding that future costs could never be awarded in appropriate circumstances, I will deduct the costs of dental care not realized as I find the inclusion of them to be unreasonable in this case. I am deducting \$3,796.04.
137. Having removed the costs I find unreasonable, I find the remaining costs are all reasonable and total \$6,853.27.

**XII. Order under section 20.6(c)**

138. I find that the Appellant is liable to the Society for the amount of **\$6,853.27** in respect of costs of care.

Dated at Victoria, British Columbia this 18<sup>th</sup> day of October 2018.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:

A handwritten signature in black ink, appearing to read 'Corey Van't Haaff', written in a cursive style.

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Corey Van't Haaff, Vice Chair  
Presiding Member