

IN THE MATTER OF THE PREVENTION OF CRUELTY TO ANIMALS ACT, R.S.B.C.
1996, c. 372
ON APPEAL FROM A REVIEW OF THE
BC SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS
CONCERNING THE SEIZURE OF SEVENTY-SEVEN CATS

BETWEEN

CHERYL BALCILEK

APPELLANT

AND

BC SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the BC Farm Industry Review Board: Wendy Holm, Presiding Member

For the Appellant: Cheryl Balcilek

For the Respondent: Siobhan McConnell, Counsel

Date of Hearing: December 3, 2021

Location of Hearing: Video conference

I. Introduction

1. On September 28, 2021, the BC Society for the Prevention of Cruelty to Animals (“the Society”) seized 71 cats – the “Animals” - under Section 2 (1) of the Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372 (the *PCAA*; *the Act*) from the owner of the Animals, Ms. Cheryl Balcilek (the “Appellant”). Subsequent to the seizure, 2 cats died and 8 surviving kittens were born, bringing the total number of subject to this Appeal to 77.
2. On September 29, 2021, the Appellant requested that the Society return the Animals to her care.
3. On October 29, 2021 the Appellant’s request was denied in written reasons issued by Marcie Moriarty, Chief Investigation and Enforcement Officer of the Society under s. 20.2(4)(b) of the *PCAA* (the “Review Decision”).
4. On October 29, 2021, the Appellant appealed the Review Decision to British Columbia Farm Industry Review Board (BCFIRB) pursuant to s. 20.3 of the *PCAA*.
5. The Appeal was scheduled to be held by video conference on November 30, 2021 but was adjourned to December 3, 2021.
6. The Hearing convened by video conference at 8:30 a.m. on December 3, 2021 and concluded at 4:15 that afternoon. The Appellant represented herself, testified, and called no other witnesses. The Respondent was represented by counsel, who called one expert witness and two Society officers as witnesses.

II. Preliminary Matters- the aPre-Hearing

7. PRE-HEARING CONFERENCE

- a. A Pre-Hearing Conference was held with the parties on November 23, 2021 by video conference to confirm the Appellant’s witness list and to hear from the parties with respect to the Appellant’s summons application. The Appellant identified five potential witnesses and two additional (unnamed) persons whom she wished to summon as witnesses.
- b. In the video conference call, the Appellant was given an opportunity to explain how each of the proposed witnesses’ evidence was relevant to the issues before the Panel on this appeal. After each submission by the Appellant, the Society was given an opportunity to comment with respect to the relevancy of the respective witnesses’ evidence.
- c. After hearing from the Appellant and the Society, the Panel decided on the relevance of the proposed witnesses’ evidence to the appeal hearing and whether, taking into account the principle of proportionality, their evidence would be necessary to support a fair hearing. In making its decisions regarding each of the witnesses, the Panel noted s. 40(1) and (2) of the *Administrative*

Tribunals Act [SBC 2004] CHAPTER 45 which gives the tribunal the power to admit, receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law and to exclude anything unduly repetitious.

- d. The Appellant indicated that her reason for calling these witnesses was to support her assertion that the Animals were:
 - i. not in distress at the time of seizure;
 - ii. that illegal acts were perpetrated leading up to the seizure; and
 - iii. that the seizure itself was improperly motivated and retaliatory in nature.
- e. The Presiding Member explained several times to the Appellant that the scope and jurisdiction of this Appeal is limited to the determination of two issues only:
 - i. Whether the Animals , were in distress at the time of the seizure.
 - ii. Whether it is in the best interest of the animals to be returned to the Appellant's care.
- f. Based on the submissions of the parties, it was the decision of this Panel that only one witness, District of Squamish By-Law ACO Blasak, could offer evidence in addition to the evidence provided by the Appellant that would be relevant to the issues on Appeal. A Summons was provided to the Appellant by BCFIRB staff to call ACO Blasak as a witness. This was followed up by several emails to the Appellant to ensure she had received the Summons and to provide her with instructions on how to serve a summons. The phone number and work address of the witness were also provided.
- g. For reasons unknown to the Panel, the Appellant decided not to avail herself of this opportunity and did not call any witnesses.

8. ADJOURNMENT APPLICATION

- a. On the evening of November 29, 2021, the Appellant sent a series of emails to BCFIRB requesting that the November 30, 2021 hearing be adjourned for medical reasons.
- b. In her correspondence and in subsequent phone calls with BCFIRB Case Management staff, the Appellant said she had gone to the Vancouver General Hospital that day with symptoms of dizziness and stress and was advised by the Emergency Room doctor to rest for five days.
- c. The Appellant said she was suffering from "benign positional vertigo" and low blood pressure and had booked an afternoon appointment the next day (November 30, 2021) with a medical specialist.
- d. The Appellant was advised by BCFIRB staff that her adjournment request would be considered as a preliminary matter at the hearing the following day (November 30, 2021) and was asked to provide BCFIRB and the Society with

documentation of her visit to Vancouver General Hospital and follow up medical appointment by 8 am the next morning (November 30, 2021).

- e. Before 8 am the following morning – the day of the hearing - the Appellant provided BCFIRB and the Society with an email copy of a *Medical Leave Note* from Vancouver General Hospital that read “*Due to the current medical situation, the patient will be unable to attend work/school for the following days 28/11/21 to 5/12/21.*” The note was signed by a physician.
- f. When the Hearing convened at 8:30 on November 30, 2021 the Adjournment request was the first matter considered, and the Presiding Member asked for submissions from the Parties.

- i. Appellant Submission on Adjournment

- 1. The Appellant said she was suffering from dizziness, was unable to read, could not think clearly, could not follow with accuracy what parties to the Hearing were saying, and because of this was unable to participate in the Hearing.
 - 2. The Appellant requested an adjournment until after December 5, 2021. As evidence, the Appellant referenced the *Medical Leave Note* provided to the Panel and the Society that morning.

- ii. Society Submission on Adjournment

- 1. Ms. McConnell, legal counsel for the Society, said they preferred to proceed, noting there were three witnesses who had already set aside time to appear, that any delay would result in higher care costs, and that the unusual number of animals needing shelter due to the area flooding was placing a great deal of stress on shelter facilities and staff.
 - 2. In consideration of the Appellant’s medical issues, Ms. McConnell said the Society would be agreeable to postponing the Hearing one day - to December 1 - noting that witnesses had “already booked” this as a second day should it be needed. Ms. McConnell also noted she was in court the following week and not available.

- iii. Panel Questions to the Parties

- 1. When asked by the Panel what steps she intended to take to reduce her stress, the Appellant replied bed rest. When asked when she felt she would be ready to proceed, the Appellant said she felt confident that five days would be sufficient for her symptoms to subside.
 - 2. The Panel asked Ms. McConnell to consider whether she felt the hearing could be conducted in one day. Ms. McConnell replied that she believed it could be, depending on the Appellant’s questioning.

3. The Presiding Member noted timing was tight. BCFIRB's Practice Directive required a decision be issued no later than 29 days from the date the Notice of Appeal. While an adjournment would necessarily shorten the time available for writing the Decision, the Presiding Member said she was prepared to commit to adjusting her schedule to ensure she could file her Decision on time (by December 15, 2021) to avoid further delay and costs.
 4. The Panel then asked the Ms. McConnell whether she and her witnesses might be available on Friday December 3, 2021. Ms. McConnell said she could move some appointments around to make herself available that day but would have to confirm if the three witnesses had similar flexibility.
 5. The Hearing recessed for 15 minutes.
 6. On return, Ms. McConnell confirmed that all three of the Society's witnesses were available to participate on Friday December 3, 2021.
- g. The Appellant noted that she did not find an adjournment to Friday acceptable, stating that "a medical emergency is a medical emergency and should supersede costs to the Society."
 - h. The Presiding Member noted that an adjournment Friday was not ideal for anyone, but all were doing their best to accommodate the interests of the Appellant. She noted that that they were under a considerable time constraint, she had a duty to be fair to all parties, and that the real issue was not costs to the Society but the well-being of the Animals, who were in transition care and deserved to have this matter decided as soon as possible.
 - i. The Appellant continued to press for an adjournment and raised the fact that six of her proposed seven witnesses had been denied in the pre-conference hearing, The Panel explained again that its decision was based on the relevancy of the proposed witnesses' testimony and pointed out that the proposed adjournment date was only one business day earlier than the Appellant had requested.
 - j. Based on the submissions of the parties, the Panel thanked the parties for their attendance and adjourned the Hearing of this Appeal to Friday December 3, 2021.

III. Preliminary Matters – Hearing

9. One preliminary matter was dealt with at the opening of the Hearing:
 - a. Confirmation of the number of Animals which are the subject of this Appeal:

Ms. McConnell, counsel for the Society, reported that 71 cats were seized from the Appellant's property. Of these, two cats were euthanized. Six of the seized cats were pregnant when seized and gave birth to 21 kittens, with only 8 kittens surviving. Consequently, there are 77 cats in total that are the subject of this Appeal.

IV. Assertion of Bias

10. On two occasions during the course of the hearing (as noted below at paragraph 42 subparagraph "f" and paragraph 47 subparagraph "g" of this Decision), the Appellant accused the Presiding Member of "bias".
11. This assertion on the part of the Appellant first arose after she was admonished by the Presiding Member for inappropriate questioning of witnesses (aggressive, disrespectful and accusatory).
12. When the Appellant first raised the allegation of Panel bias, the Presiding Member explained to the Appellant that an assertion of bias was a very serious matter, asked that it be put on the record, asked the Appellant for her reasons, and asked counsel for the Society to respond).
 - a. The Appellant responded that the Presiding Member kept interrupting her and would not let her ask her questions.
 - b. Ms. McConnell, counsel for the Society, responded that she found no bias in the Presiding Member's attempts to maintain a respectful atmosphere during the course of the hearing and to effectively direct the Appellant's questions to matters of relevance.
13. The Appellant asked whether there was someone she could call "now" (at the time, during the hearing) to hear her concerns of bias. The Panel advised her that if, after reviewing the Panel's Decision, the Appellant still felt the Presiding Member was biased, the Appellant could then request a Judicial Review.
14. At all points during the course of the hearing the Panel was keenly aware of its obligation as the decision maker to ensure that the Appellant was afforded every reasonable opportunity to meaningfully engage in the appeal process and that a just result intrinsically required that the process itself would be deemed by any reasonable outside observer to have been just. (see *Committee for Justice and Liberty v. Canada (National Energy Board)*, 1976 CanLII 2 (SCC), [1978] 1 S.C.R. 369 at page 394) The Panel is confident that the hearing was conducted in a manner that was both procedurally fair and in accordance with the requirements natural justice.

V. Material Admitted in this Appeal

15. The Panel identified the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1 – 25 and is attached as Appendix A.
16. The Society noted that time constraints prevented them from providing the Appellant with hard copies of their last four documents – another foster agreement, an invoice for laboratory costs for cat number 38, an updated status list of November 29, 2021, and a revised status list of December 1, 2021. The Appellant had received email copies of the four documents and Ms. McConnell summarized their nature and contents. The Panel accepted the documents as exhibits.

VI. Issues on Appeal

17. There are two issues to be decided in this Appeal:
 - a. Were the Animals in distress at the time of seizure such that that the seizure was justified in all of the circumstances?
 - b. Is it in the best interest of the Animals to be returned to the care of the Appellant?

EVIDENCE AND FACTS

VII. Background

18. The Appellant has resided in a motorhome on a property on Squamish Valley Road, Squamish, BC since June 2021. Prior to then, the Appellant resided in her motorhome on Cleveland Avenue, Squamish BC. The Appellant moved to her present address when the Cleveland Avenue property was sold, and she was required to move with less than 30 days notice.
19. The Appellant's cats live with her in her motorhome and in an adjacent, older and smaller motorhome parked parallel to the newer one. The two are joined by an enclosed "cattio" (cat patio), which the cats access through open side doors of the two motorhomes.
20. During the 10-month period of October 2020 through July 2021, the Society received seven complaints concerning the Appellant's cats.
 - a. The first two complaints – Sept 18, 2020 and May 16, 2021 – resulted in two Society attendances at the Appellant's Cleveland Avenue address. In both cases, the complaints related to numerous cats housed in a motorhome and attached cattio that emitted a strong smell of feces and urine. In both cases, the attending SPCA Officer was denied access to the motorhome. When asked how many cats she owned, the Appellant in both instances replied seven.

- i. During the October 6, 2020 visit by SPCA Constable Brittney Collins, the Appellant was told by the attending officer that her premises met “bare minimum” conditions and she should spay and neuter her animals and not acquire more because her premises were inadequate for a larger population. Constable Collins offered assistance to spay/neuter, but the Appellant declined. Before leaving, Collins issued a Notice to “Ensure all animals have the space to withdraw from one another. – ongoing”.
 - ii. During the May 2021 visit, the Appellant informed the attending officer that she was being harassed by her neighbours, the Squamish By-Law Enforcement Officer and the Society and asked the officer to leave her property.
 - b. The last five complaints – June 20, June 21 (2), July 11 and July 18 – resulted in one further Society attendance at the Appellant’s Squamish Valley Road address on June 27. All five complaints related to a large number of cats (15 - 20) housed in small quarters, the prevailing heat wave, and the fact that both motorhomes emitted a strong smell of feces and urine.
 - i. On June 27, Special Provincial Constable (SPC) Felix Cheung attended at the Squamish Valley Road address with Animal Protection Officer (APO) Windover. The Appellant refused the officers access to either motorhome but allowed APO Windover to look into the larger unit. The air conditioning unit in the motorhome was running at the time and the cats observed by the officer had access to water and appeared healthy. The Appellant refused to disclose how many cats were living there. No unsanitary conditions were observed at that time. The Appellant told the officers that all her cats were intact and that she had no intention of spaying or neutering them. She refused offers from the Society and other organizations to have her cats spayed/neutered and rehomed to reduce their number.
 - ii. On July 18, the Society notified the complainant that they had recently visited the premises, had not at that time had any concerns regarding the health or sanitation, and were unable to enforce complaints regarding the number of animals on a property but had forwarded the concerns to Squamish By-Law Enforcement. The Society suggested to the complainant that another report could be submitted if the animals appeared to be sick or were living in unsanitary conditions.
- 21. On September 7, the Society received another complaint concerning the Appellant’s cats.
- 22. On September 22, APO Sandra Windover contacted the complainant and ACO Blasak.
 - a. The complainant, who is the Appellant’s landlord, told APO Windover that there were “dozens of cats” living in the Appellant’s two motorhomes. He said

that when he began trapping the cats and turning them over to the Society, he observed wounds to their faces and bodies, and that they appeared underweight and matted. He added that the cats had outdoor access until recently but were now confined to the two motorhomes. He said the smell of ammonia was overpowering and could be noticed from 200 – 300 yards away. He further stated that he had heard loud “screams, howls and cries” from cats fighting in the motorhomes.

- b. ACO Blasak told APO Windover that she had been visiting the Appellant to follow up on bylaw complaints since the summer, confirmed an “overpowering” smell of cat urine from 50 feet outside the motorhomes that “burns your eyes” and said the Appellant refused her access to the motorhomes to view the living conditions of the cats. ACO Blasak was also aware that since mid-August the Appellant had kept all her cats inside the motorhomes and did not allow them to go outside. ACO Blasak believed there were approximately 28 cats and kittens in the two motorhomes. ACO Blasak said the Appellant had told her the ammonia levels were so high that at times she could not sleep in the motorhome and instead slept in a car off the property. ACO Blasak offered the Appellant help to rehome the cats, but the Appellant refused.
23. On September 26, APO Windover and ACO Blasak attended at the Appellant’s home and told her that another complaint has been received about the living conditions of the cats and the smell of ammonia coming from the motorhomes. The Appellant insisted that everything was fine and denied there was any smell. APO Windover told the Appellant that if she refused to come outside to speak with her about her concerns there was the potential for further action, including an application for a search warrant. The Applicant refused speak to the Officers and told them to leave. As she left, APO Windover heard what she believed were the sounds of fighting cats within the motorhome. In her Inspection Report, APO Windover noted the following observations:
- a. *14 cats/kittens viewed in the front window.*
 - b. *Cats were 'squeezed all the way down to the bottom of the window, with ears flat and body's squished.'*
 - c. *Front windows were duct taped closed, allowing for no ventilation or circulations inside the RV.*
 - d. *Brown film and cat fur caked the front windows on the inside.*
 - e. *The windows at the rear of the RV had a moderate build-up of condensation*
 - f. *The cats that were viewed in the front window had yellow eye discharge, swollen red tissue around their eyes and black dried nasal discharge.*
 - g. *Second smaller, brown and beige RV had all windows blacked out and closed.*
 - h. *Strong smell omitted from beige and brown RV; no cats were viewed in the windows.*
24. On September 28, SPC Felix Cheung applied for and received a search warrant pursuant to Section 13(2)(a) and 13 (2)(b) of the Act based on his belief that the cats inside the two motorhomes were in distress due to having inadequate space, inadequate ventilation, unsanitary living conditions and exhibiting signs of illness.

25. The Search Warrant was executed on September 28 by SPC Cheung. Accompanying him were APO Sandra Windover, Squamish RCMP Constable Stacey Wilkinson, and RCMP Constable Dallas Langley. Once the premises were secured, SPC Jacqui Hall and Squamish Animal Control Officers Kelly McIntosh and Tiffany Blasak arrived to assist with the warrant. Doctor of Veterinary Medicine (DVM) Craigdallie attended to help assess the adequacy of living conditions as well as perform/oversee the medical examinations of the cats post seizure.
26. In his follow up report, SPC Cheung notes what he observed during the execution of the Warrant:
- a. *I noticed an overwhelming smell of ammonia which caused me to gag and choke and my eyes started to tear up.*
 - b. *The carpets around the front two seats of motorhome were drenched in what I suspected was cat urine from the smell.*
 - c. *All the windows of the motorhome were covered in a yellowish film of wet cat fur.*
 - d. *There was a large litterbox with clumping litter that was overflowing and were two cardboard box trays which were filled with cat feces next to the litterbox.*
 - e. *There were opened cans of wet cat food around the floor, and I noted one water.*
 - f. *I walked over to a side door of the large motorhome which was encircled by a wooden cattio contraption that connected the large motorhome to the small motorhome. I saw adult cats coming in and out from the side door of the small motorhome into the cattio area and some attempted to climb into the large motorhome through an open window...*
 - g. *The floor of the cattio enclosure was a deep layer of what appeared to be a mixture of mud, clay and possible cat excrement and the area was filled with water due to the recent rain as the cattio was not adequately covered.*
 - h. *There was also what appeared to be litterbox on the cattio floor off to the side, but the litterbox was full of water.*
 - i. *APO Windover took ammonia strip samples and told me that the readings were high with some strips indicating around 50ppm of ammonia.*
 - j. *I was informed by APO Windover that the conditions inside the small motorhome were unsanitary with the presence of feces as well and a high level of ammonia.*
27. Due to the high levels of ammonia, the presence of urine and feces in the enclosed space, the large number of cats in the limited amount of space and the indications of illness in some of the, SPC Cheung determined the animals were in distress as defined by the PCAA and all of them - 71 cats and kittens - were seized and transported to Society facilities.
28. On September 29 and 30 the cats were examined by Dr. Craigdallie, who was assisted on the second day by Dr Karen Harvey and Dr. Ellen Boyd.

29. In her 23-page report and 86-page appendix, Dr. Craigdallie provides a summary with photographs of her observations on the day of seizure. She notes a lack of ventilation, ammonia levels of 20-50 ppm in all areas, a cluttered and unsanitary living space (garbage and debris on the floors, feces on the floor and on bedding), a lack of litter boxes appropriate for the number of cats (only 2 actual and one potential litter box; none in the second motorhome), only 1 visible pot of water in each motorhome, a lack of age-appropriate nutrition, a failure to separate sexually active males and females (in main motorhome 20 females and 17 males of reproductive age), and a lack of proper oversight (given the number of cats and the similar appearances it would be impossible to adequately assess each cat's husbandry or medical needs).
30. In her report, Dr. Craigdallie summarizes the medical findings for the 70 cats (excluding one day old kitten birthed during the seizure) as follows:
- a. *10 suspected pregnant cats (50% of the females of reproductive age); plus 1 in active labour*
 - b. *20 intact females and 17 intact males of reproductive age housed together*
 - c. *18/26 kittens had distended abdomens suggestive of a parasite infection (69%)*
 - d. *26/70 cats had nasal discharge (37%)*
 - e. *25/70 cats had eye discharge (36%)*
 - f. *27/70 cats had ear discharge (39%)*
 - g. *11/70 cats had obvious urine staining (16%)*
 - h. *6/24 adult males had dirty testicles (kittens were not counted as their testicles are typically quite small still) (25%)*
 - i. *3/70 cats had an obvious ammonia smell 24-48 hours after they were removed from the trailer (4%)*
 - j. *8/70 cats had facial wounds or inflammation around the lips/chin (11%)*
 - k. *5/70 cats had umbilical hernias with a suspected 6th (8%)*
 - l. *3 cats had evidence of matting of the coat (4%)*
 - m. *4 cats had evidence of cardiac disease (6%)*
 - n. *3 cats had retained baby teeth (4%)*
 - o. *3 cats had periocular inflammation*
 - p. *1 cat was thin with a distended abdomen concerning for underlying issues*
 - q. *1 cat had resorptive dental lesions*
 - r. *1 cat had a facial deformity*
 - s. *Overall there were 32 medical issues that warrant observation and/or treatment*
31. Based on her observations, Dr. Craigdallie concluded that basic husbandry and medical requirements needed to provide adequate quality of life were not met, summarizing her concerns as follows:
- a. *Lack of safe and easy access in case of an emergency*
 - b. *Lack of ventilation:*
 - c. *High ammonia levels*
 - d. *Cluttered and unsanitary living space*

- e. *Lack of warm/dry living space:*
 - f. *Lack of number and appropriateness of litter boxes*
 - g. *Inadequate nutrition for all life stages and medical issues and possibly not enough food for all the cats*
 - h. *Density of animals*
 - i. *Reproductive population*
 - j. *Lack of proper medical oversight*
32. On September 29 the Appellant contacted the Society requesting the return of her cats.
33. On September 30 the Appellant contacted the Society requesting a copy of the Information to Obtain (ITO) the Search Warrant document, alleging the Search Warrant was improper because although the street address was correct (59921 Squamish Valley Road), the ITO stipulated “pad 7” and none of the units had pad numbers.
34. On October 4, Chief Prevention and Enforcement Officer Marcie Moriarity wrote to the Appellant, provided her with copies of the Notice of Disposition, the signed Search Warrant and the ITO, requested her submissions by October 14 as to why it would be in the best interests of the Animals to be returned, and noted that the Appellant was responsible for the Society’s costs to look after the Animals while they were in the Society’s care.
35. In her correspondence of October 29 (Exhibit 1), Ms. Marcie Moriarty, Chief Prevention and Enforcement Officer of the Society, advised the Appellant of her reasons for not returning the Animals. Ms. Moriarty’s Review Decision stated that she was satisfied, based on the evidence, that SPC Cheung had reasonably formed the opinion that the Animals were in distress, as defined in section 1(2) of the *PCAA*, and that his action to take custody of the Animals to relieve them of distress was appropriate. With respect to the disposition of the Animals in the Society’s custody, Ms. Moriarty concluded that it was not in the best interests of the Animals to be returned to the Appellant. In her decision, Ms. Moriarity notes she relied on the entirety of Dr. Craigdallie’s comprehensive report, which presents veterinary records of the physical examinations and photographs of each cat as well as photographic evidence of the unsanitary and unsafe conditions within the property. In her Review Decision, Ms. Moriarity made specific mention of the following observations by Dr. Craigdallie:
- a. The Appellant “appears to be unaware, or fails to acknowledge the severity of the living conditions that these cats are housed in...”
 - b. The Appellant “...did not appear to know, or failed to acknowledge, the extent of her cat population or have knowledge of the number of reproductively active animals that were housed together... (10 pregnant cats were seized, one was giving birth during the seizure).
 - c. The lack of litter boxes... preventing cats from natural and stress-free elimination behaviours, forcing them to eliminate inappropriately in their

environment resulting in soiled and damp surroundings and high ammonia levels.

- d. Poor air quality and an unsanitary environment that do not meet appropriate living conditions.
- e. Failure to provide life-cycle appropriate nutritional and medical needs of the animals.
- f. Risk of genetic diseases being passed on due to lack of genetic diversity and inbreeding.
- g. That any further delay in the Society's ability to assess the living conditions of the cats would have led to an even worse, possibly dire situation for these animals.

Ms. Moriarity found that returning the Animals to the Appellant's care and control was not in their best interests based on the evidence, the Appellant's unwillingness to surrender any of the cats, her refusal of offers to help spay/neuter the cats or assist in rehoming them to reduce population numbers, her continued refusal to allow Society officers access to the property to inspect their living conditions, her failure to provide evidence of having made improvements to the living environment/sanitation, and her denial of the conditions the cats were living under.

36. On October 29, the Appellant filed a formal notice of appeal of the Review Decision with BCFIRB.

VIII. Appellant Testimony

37. The Appellant represented herself and called no other witnesses.
38. The Panel thanked the Appellant for her participation, assured her that the Panel had read her submissions, and asked her to let the Panel know if she needed to take a break. After being sworn in, the Appellant testified to the following:
 - a. The Appellant believed the seizure of her Animals is a matter of retaliation. The Society had been receiving complaints from a group of people for about a year. All of the complaints were false. Her property had been visited previously and no distress had been determined.
 - b. The Animals were not under distress, they were healthy and happy cats. There was no problem with ventilation nor any smell of urine/feces emanating from her two motorhomes.
 - c. The Appellant is the victim of harassment by her neighbours, her landlord, the District of Squamish's By-Law Enforcement officers and the Society, who collaborated to coach her landlord to illegally trap three of her cats this summer. The cats were turned over to the Society. The Appellant feels these cats were stolen from her.
 - d. The Appellant testified that SPCA Manager Krista Unser was aware after Aug 16, 2021 that the animals on the Society's website were the Appellants cats. She testified that Unser stated the cats looked okay and she would give

them back to the Appellant if she paid the Society's fee for care. The Appellant stated that she had agreed to pay the fee but when she had arrived, Ms. Unser had refused to return her animals.

- e. According to the Appellant, the only time distress was raised with respect to her animals was after she filed an FOI request and began to take legal action against those, she feels were acting against her in a criminal manner. The Appellant said she intends to take the matter to the Supreme Court and raise it in social media to draw public attention.
- f. The Appellant stated that since what she described as the 'theft of her cats', she has not allowed them to go outside and has kept them confined in the two motorhomes.
- g. The Appellant agrees that the Animal's living conditions were not perfect, and that her cat patio was wet and muddy. But she further stated that the Animals were healthy otherwise and the cat patio was clean of feces.
- h. The Appellant stated that the alleged harassment caused her to begin smoking again and caused her to suffer from stress and vertigo.
- i. The Appellant noted that when she informed the District of Squamish and the Society that she was suing them for harassment and for the theft of her three cats, the Society sought a search warrant and proceeded to seize her cats to cover up what the Appellant describes as collusion and criminal activity.
- j. The Appellant asserts that all the Society's assertions were false and that her cats were in good health. She states that it is no-one's business how many animals she decides to keep and that there were only 35 or so cats on the day of seizure, not 71 as claimed by the Society.
- k. During the seizure, the Appellant said that Society broke the door on her \$150,000 motorhome, allowed her computer to fall to the floor (breaking it), put a bag of feces on her couch, stepped on her bed, left her floor stained with mud and tracked feces into her home.
- l. The Appellant repeatedly testified that her Animals were not in distress. She stated that the only reason the cattio (a contained space that connected the two motorhomes which also served as a litter box) was wet and filled with mud was because of the heavy rains. The Appellant testified that the Society waited till it was raining heavily to initiate the search so that conditions would be found to be poor. The Appellant testified that she offered during the seizure to get the cattio properly covered to prevent water from entering.
- m. She testified that when the land she was previously living on was sold, she was only given 15 days to find a new location for her motorhome, and so moved to her present location on Squamish Valley Road on the recommendation of her former landlord, who was a friend of her present landlord. She viewed her present location as temporary and was hoping to get an acreage to allow the cats to roam free.

- n. The Appellant testified that cats found in the cupboards and compartments of the larger motorhome were put there by the Society during the search to further their case.
 - o. The Appellant testified that all the Animals were healthy when seized and those that subsequently died in care, died as a result of mistreatment by the Society.
 - p. The Appellant testified that all her cats are inbred as she has had them since they were kittens. She acknowledged she did not have the space at her current location to accommodate all her animals and could not give them the best care. She stated that she was willing to rehome them and had offered some on Kijiji but that she is very fussy about who adopts. She further noted that she would prefer to rehome 3 to 10 cats at a time so they could stay together and that she has not rehomed any yet.
 - q. The Appellant is self-employed as a ghost writer and editor. She stated that her work has included ghost writing for students in MBA programs.
39. In response to cross-examination by Ms. McConnell, legal counsel for the Society, the Appellant testified as follows:
- a. Ms. McConnell asked where the Appellant lived. The Appellant replied that she lived in the larger motorhome and that she would sometimes leave the doors of both homes open so the cats could socialize and use the catio. When asked if she recalled telling ACO Blasek that “the level of ammonia is so high that she cannot sleep in her home”, the Appellant replied that this was a lie and that the reason she had slept in her car was due to chemical cleaners being used by neighbours.
 - b. Ms. McConnell took the Appellant through the sworn statement of APO Brittney Collins who visited her former (Cleveland Avenue) address on October 6, 2020 to investigate a complaint of crowding and a smell of urine and feces but was refused access. The Appellant denied refusing access, saying that the officer did not want to come in and that Officer Collins found no problems during her visit. Ms. McConnell noted that when Officer Collins asked how many cats were in the home, the Appellant replied there were only seven cats and that Officer Collins told her she should not get any more because the space was barely adequate for the ones she had. Ms. McConnell asked the Appellant if she recalled Collins saying if there were more cats, they would not have space to withdraw from one another. The Appellant said she did not. When asked why she did not take up Officer Collins offer to spay/neuter some of the cats to reduce the population pressure, the Appellant said she did not want any of her cats “fixed”.
 - c. Ms. McConnell took the Appellant through the testimony of SPC Cheung, who visited her former (Cleveland Avenue) address on May 30, 2021 in response to a complaint of crowding and the smell of urine and feces. In his report, SPC Cheung said he believed the Appellant had 35 or more cats at the time, but she admitted to only 7 cats and 6 kittens. The Appellant did not remember

telling SPC Cheung this. Acknowledging that she refused SPC Cheung access to inspect her premises, she testified that SPC Cheung expressed no concern with the health and living conditions of her cats, and told her she was the victim of harassment. No action was taken by the Society.

- d. Ms. McConnell then took the Appellant through the evidence of SPC Cheung and APO Sarah Windover following their visit to her current premises on June 27, 2021 in response to another complaint of the same nature. When asked why she denied access to SPC Cheung and APO Windover to inspect the conditions the cats were living in, the Appellant said she did not deny access, and that APO Windover had looked in the window and did not observe any problems. No action was taken by the Society following this visit.
- e. Ms. McConnell then asked the Appellant about the August to September period, noting that by then she had stopped allowing her cats to run free. The Appellant said they never ran free. When asked about the number of cats she had at the time, the Appellant said around 35 cats and some kittens.
- f. Ms. McConnell then asked the Appellant about the September 26th visit of APO Windover and ACO Blasak in response to a complaint of animal cruelty (cats were underweight, with scratched faces and matted hair), crowding and the smell of urine/feces. The Appellant denied this, saying the cats were in excellent condition. Noting she had just returned from the hospital where she had been treated for chemical poisoning, the Appellant admitted refusing APO Windover and ACO Blasak access to inspect the living conditions of the cats. She also recalled, when asked by Ms. McConnell, telling them they had no business asking about the number of cats she had and ordering them off her property.
- g. Ms. McConnell asked the Appellant to explain her feeding regimen. The Appellant replied that she fed the cats raw and dry and wet food three times a day. The Appellant was unsure how many tins of cat food she put out at a time. When asked how she controlled for allergies, she said if a cat seemed allergic to a particular food, she switched the food for all.
- h. Reviewing the litterbox situation, Ms. McConnell asked how many litter boxes the Appellant had. She responded there were five litterboxes at the time of seizure, but two were in the bathroom and went unnoticed during the seizure. Ms. McConnell asked the Appellant if she felt five litterboxes were adequate for the number of cats she owned. The Appellant said she would consider putting a litterbox in the smaller trailer.
- i. Ms. McConnell then asked the Appellant about population control. The Appellant said that none of the sexually active male cats were kept in the main motorhome. All seven sexually active male cats were kept in the smaller motorhome and sexually inactive males together with the females were kept in the larger motorhome. Cats were allowed to mix unless a female was in heat, in which case she was confined to the larger motorhome. When asked if she was aware that at least seven cats were pregnant at the time of seizure and another was in active labour during the seizure, the Appellant said this was a

lie. When asked if she was aware that one cat was giving birth in the front of the motorhome during the seizure, the Appellant said this was also a lie. When asked how many cats had given birth in 2021, the Appellant refused to answer. When asked if any of the kittens born in 2021 were rehomed, the Appellant replied that she kept them all, saying of the kittens birthed in 2021, only 2 had died.

- j. Ms. McConnell then turned to the day of the seizure, asking the Appellant if the smell of urine and feces was not strong that day. The Appellant denied that there was any smell except possibly at the front to the larger motorhome. When asked about reported eye, nasal and ear discharges, the Appellant said this was a lie; only one cat may have exhibited these symptoms. The Appellant denied that any cats had scratches or injuries and denied that any cats – with the possible exception of “Adonis” - had lip or chin lesions, asserting instead that any observed problems happened while in the care of the Society. The Appellant said the two cats with hernias were seen by a vet and there was no concern. When asked how many cats had diarrhea, the Appellant answered none. When asked how – given the limited and shared litter boxes – she could identify which cat had diarrhea if they became sick, the Appellant said if a cat was feeling sick it would tell her (she would know by observing other signs). When asked if any of the cats had urinary issues, the Appellant said one did (“Chipmunk”) and she had sought veterinary treatment. In response to further questions, the Appellant said none of her cats were vaccinated because they had allergies.
- k. The Appellant said the number of cats seized was not 71 but more like 35. When asked how such an error in counting could arise, the Appellant said she had reviewed the vet files there were many duplications.
- l. Ms. McConnell then turned to the physical environment of the two motorhomes. When asked about ventilation, the Appellant said ventilation in both motorhomes was good, that there was no duct tape impeding air flow, but refused to say whether she kept any windows open to aid ventilation. She said there was electricity and heat in the larger motorhome and a woodstove in the smaller, but that the stove was never burned for the cats. The Appellant said she was unaware of any leaks in the smaller motorhome.
- m. Ms. McConnell asked the Appellant if she had the financial ability to look after 77 cats. The Appellant said she did, that she was a self-employed ghostwriter and also did editing. When asked what would happen to the cats if the Appellant had to leave due to her chemical sensitivities, the Appellant said she had been managing this problem for a long time, and if she had to leave for a night the cats would be fine, and if she had to be away for a longer time, she would find someone to look after them. The Appellant added that she has surveillance cameras inside the home and could monitor them when she was not there.

IX. Respondent Witnesses

40. The Society was represented by Ms. McConnell, who called three witnesses: Dr. Craigdallie, D.V.M., SPC Felix Cheung and APO Sandra Windover. Dr. Craigdallie was qualified by the Panel as an expert witness in veterinary medicine. Dr. Craigdallie is a veterinarian in good standing with the BC college of Veterinarians and licensed to practice in the province of British Columbia. She received her D.V.M. from the Ontario Veterinary College in 2006 and is currently practicing as an emergency veterinarian at VCA Vancouver Animal Emergency and Referral Centre (VCA VAERC) where she has been employed as an ER veterinarian since 2006.
41. After being sworn in, SPC Felix Cheung testified to the events leading up to the seizure, the procurement of the warrant and the seizure itself. His evidence included documents and emails as summarized in paragraph 20 and paragraphs 24-27 of Background. In his testimony and subsequent cross examination, the following additional evidence was presented:
 - a. SPC Cheung first visited the Appellant's former address on May 20, 2021 in response to a complaint of a 10x10 enclosure with about 10 cats and a strong odour of fecal matter. He observed 5 to 7 cats at the time. The Appellant told him she was being harassed, began filming him, and told him she was going to sue the Society for harassment. SPC Cheung replied he was just there to investigate the report. At the time, the cats he saw appeared healthy.
 - b. SPC Cheung visited the Appellant's present address with APO Windover on June 27 in response to 3 different reports from 3 members of the public alleging approximately 15 cats in the motorhome and a strong smell of urine. The Appellant denied access but allowed APO Windover to look in the window. No unsanitary conditions were observed.
 - c. SPC Cheung's application for a search warrant on September 27 was triggered by a complaint on September 7 that the cats were confined in the motorhome, there was a strong smell of ammonia outside the home, and the cats showed signs of injuries and scratches believed to be from fighting. SPC Cheung testified that APO Windover and ACO Blasek visited the Appellant's premises on Sept 26. During their visit, they reported seeing approximately 14 cats and kittens "squished together" in the front window of the motor with red sores around their eyes and with nasal and eye discharge. A brownish film with fur and condensation coated the inside of the window, and a strong smell of ammonia was present. They also reported the sounds of cats fighting inside. SPC Cheung testified that when the Appellant refused them access to the motorhomes to inspect the living conditions of the cats, APO Windover advised the Appellant that her refusal to work with the Society could result in a follow up warrant that would allow them access to inspect the living conditions of the animals to determine whether they were in distress.
 - d. On September 27 a search warrant was obtained and executed. Initially the Appellant refused access, but when she was told that a locksmith would attend

if necessary to allow access to inspect the premises, she eventually agreed and allowed them entry.

- e. When he entered the motorhome, SPC Cheung testified that the strong smell of ammonia made him choke and gag. All windows were closed so there was no ventilation, and it was very stuffy. He observed boxes of excrement, some garbage, one bowl of water and about 12 open tins of wet cat food on the floor. Ammonia levels inside the home tested at 20-50 ppm. In comparison, SPC Cheung explained that in an Animal Shelter, morning ammonia readings (when they would normally be at their highest level) of >2 ppm are considered unsanitary and levels of >10 in poultry barns are considered unacceptable.
 - f. SPC Cheung said the catio, which was waterlogged, was filled with mud and excrement. It contained one litterbox which was full of water.
 - g. SPC Cheung testified he did not enter the smaller motorhome, but APC Windover and Dr. Craigdallie did and reported to him that it contained 15 cats, a water-soaked cat bed and very high ammonia levels (50 -100 ppm based on readings taken at the time).
 - h. SPC Cheung testified that during his visit he observed unsanitary conditions, a lack of ventilation, and eye and nasal discharges in some of the cats likely caused by an upper respiratory response to the high ammonia levels. He added that he was also concerned with the number of cats in the limited amount of space. For these reasons, SPC Cheung determined the Animals were in distress and accordingly they were seized under Section 11 of the PCAA.
 - i. SPC Cheung testified that the Appellant told him nothing was wrong with her cats and that their seizure was the result of a conspiracy between Squamish By-Law and the Society. She also told him she was going to sue both the District of Squamish and the Society for harassment.
42. The Appellant then cross-examined the Witness.
- a. In cross examination, the Appellant asked SPC Cheung to recall his first visit to her premises in June 2021 and asked him if her cats appeared healthy at that time. He replied that they appeared healthy, and while the smell of urine was noticeable, it was not at that time severe. She asked him if he could smell urine outside the home, he replied he could. The Appellant said this was not correct.
 - b. The Appellant then asked SPC Cheung if he recalled, during his June 2021 visit, telling her that she was the victim of harassment. SPC Cheung replied that the Appellant had mentioned the problems with her neighbours, and he was expressing sympathy for her and suggested she should consider moving.
 - c. The Appellant then began challenging SPC Cheung on the definition of distress, suggesting the reason he applied for a warrant was to cover-up a conspiracy between the Society and Squamish By-Law, and that this was done to discredit her. The Appellant's questions became argumentative and

aggressive, and as SPC Cheung tried to reply, the Appellant kept cutting him off, interrupting his responses.

- d. The Presiding member interrupted the cross examination at this point to explain to the Appellant:
 - i. That the definition of distress was not based simply on illness, that unsanitary conditions and a lack of ventilation also contributed to distress.
 - ii. That based on evidence submitted by the Society, the search warrant had been based on SPC Cheung's belief that the cats inside the two motorhomes on the Property were in distress due to to having inadequate space, inadequate ventilation, and living in unsanitary conditions.
 - iii. That based on evidence submitted by the Society, SPC Cheung determined on the day of seizure that the animals were in distress as defined by the PCAA based on the high levels of ammonia, presence of urine and feces in the enclosed space, the large number of cats and the fact that some cats showing signs of illness.
 - iv. That the only two matters to be decided in this hearing were a) were the animals in distress at the time of the seizure and if so, whether any or all the animals should be returned to the Appellant.
 - v. That since the purpose of the hearing was to provide the Presiding Member with the information on which to base this decision, it was in the interest of the Appellant to focus her cross-examination on these matters.
 - vi. The Presiding member warned the Appellant that the nature and tone of her questions during cross examination of SPC Cheung were inappropriate and disrespectful of the witness, that this violated the rules of conduct of an oral hearing.
- e. The Appellant continued with her cross-examination, but the nature and tone of her questions soon became argumentative and accusatory. She asked SPC Cheung "wasn't it true" that on the day of the seizure she had offered to get the catio covered, asserting it was her right to remedy any deficiencies and demanding that he tell her where in the PCAA it said otherwise. Each time SPC Cheung began to respond, the Appellant interrupted him, accusing him of lying.
- f. After a further warning from the Panel, the Appellant accused the Presiding Member of bias. This concern was put on the record by the Panel. (See a full discussion of this in Section IV. ASSERTION OF BIAS).
- g. The Appellant continued to cross-examine SPC Cheung, demanding to know why she was not allowed to remedy the deficiencies by covering the catio, a right that should have been afforded her under the PCAA. She asked SPC

Cheung wasn't it true that he had lied in the Information to obtain the Warrant and was in fact guilty of perjury.

- h. The continued inappropriateness of the Appellant's cross-examination caused the Presiding Member to again intervene, advising the Appellant that her cross examination of SPC Cheung was over, that they would take a ten-minute recess, after which the Society should be ready to call its next witness.
43. When the hearing reconvened, SPC Cheung asked if he could take a moment to clarify one question the Appellant had asked that related to her right to remedy any deficiencies before a seizure could take place. SPC Cheung said he had initially been confused by her question, but the answer was that her right to offer to remedy deficiencies did not extend to the day of the seizure.
44. After being sworn in, Dr. Craigdallie, D.V.M., testified to her presence at the seizure and her subsequent examination of the 71 seized animals. Her evidence, which included extensive veterinary records and photographs taken during and after the seizure, is summarized in paragraph 28 -31 of Background. In her testimony and subsequent cross examination, the following additional evidence was presented:
 - a. Dr. Craigdallie first spoke about the conditions on the day of seizure. She testified that before entering the motorhomes, she believed there were 20 to 30 cats inside but instead "there were cats everywhere" – obviously a lot more than they'd assumed. She said the smell of ammonia was so pungent it irritated her nose and lungs despite being double masked.
 - b. Dr. Craigdallie said a lot of the cats were active and playful and some on the couch were tired looking (not just napping; they did not move very much and were hard to rouse).
 - c. Dr. Craigdallie testified that on the day of the seizure almost all the windows in the motorhome were closed and that there was minimal ventilation. She testified that when she measured the ammonia levels, they showed readings of 20-50 ppm at both floor and standing height, and that actual levels were likely higher because the doors of the homes had been open for hours to permit the removal of the Animals. She explained that more than 15 minutes exposure to such levels is highly dangerous for people and animals, and that in a shelter situation, acceptable pre-cleaning levels of ammonia are only 1 to 2 ppm. She testified that ammonia is an irritant, producing particulate matter that can destroy the lining of the respiratory tract, leaving it open to infection, and that it can impact the lungs as well.
 - d. With respect to food and water, Dr. Craigdallie testified that she observed only one 8-inch cooking pot of water in the main motorhome which was 1/3 full, and about twenty tins of cat food on the floor of the larger mobile home, most of which were empty. She noted that for 64 cats (the number living in the larger mobile home; 7 males lived in the smaller home) consuming a half tin of cat food a day would require 32 tins of food a day, and that kittens, pregnant and lactating cats would require age-appropriate food.

- e. With respect to physical space, Dr. Craigdallie testified “there were cats popping out of everywhere!” – in cupboards, in drawers, on the dashboard, in every crevice. All of the cats were being housed in less than 300 square feet. She also observed that there was a lack of litterboxes, noting one large litterbox was full of feces, there was a plastic container with some shredded newspaper and what looked like an upside-down litterbox lid containing no litter. She said the motorhome was damp, moist and soiled, that the lack of sufficient litterboxes (ideally one for every cat, at minimum one for every two cats) meant cats urinated wherever they could, and that there was feces on the floor and on the bed duvet.
- f. With respect to illnesses, Dr. Craigdallie testified that on the day of seizure she observed black crusting around the eyes and nose discharge but in general the cats were in relatively decent condition. She said this was likely because at the time of the seizure they had been confined for only three weeks and that things would have become much more dire over time.
- g. Dr. Craigdallie testified that upon further examination, a third of the cats were below ideal body weight (likely a result of competition for food), 5-6 had umbilical hernias and a number had facial lip and chin wounds which caused her to suspect underlying genetic issues. One third to forty percent of the cats had ear or eye or nose discharges, mostly due to environmental conditions. She also observed dirty testicles (atypical for male cats), urine staining, distended abdomens, and facial deformities (likely due to inbreeding). Eight cats showed symptoms of Calicivirus, a source of upper respiratory infection, and 3 tested positive for this virus. Three cats also tested positive for Giardia.
- h. With respect to cat numbers and population control, Dr. Craigdallie noted that in the larger motorhome there were 20 females and 17 males over 6 months of age (sexually active) housed together. She described this as a recipe for population explosion. Of the females, Dr. Craigdallie testified that 7 were pregnant and one - in active labour at the time of the seizure – had two 10-week-old kittens nursing on her while she was giving birth, a sight Dr. Craigdallie said made her very sad. Seven cats had litters after coming into the SPCA’s care. Dr. Craigdallie said she didn’t believe the Appellant knew how many cats she had.
- i. Dr. Craigdallie testified the cattio – intended as a communal litter box - was filled with soil and mud and water. The smaller motorhome was dark and dirty, containing garbage, an old paper plate, mud and feces, a urine-stained rug, an old wet cat bed that squished water when she stepped on it, and no litter boxes. Cats had to go through the muddy cattio to eliminate in a box full of water and feces.
- j. Dr. Craigdallie suggested the high mortality rate for the kittens born post-seizure could reflect poor nutrition during pregnancy, low birth weights, a lack of sufficient colostrum production to boost their immune systems and inadequate nutrition.

- k. Dr. Craigdallie felt the Appellant had good intentions to adopt out some of the cats and to spay/neuter the adults, but that she could not admit that the conditions they were living under were not appropriate. Dr. Craigdallie believed that the Appellant appreciated the need to clean up her home but could not admit the problems caused by crowding, poor ventilation, the lack of an appropriate number of litter boxes (ideally one per cat to minimize stress and urinary issues), the lack of a clean dry space and her inability to give appropriate oversight to this large number of animals.
 - l. When asked whether she had any concerns should the cats be returned to the Appellant, Dr. Craigdallie replied yes, she did, because of the Appellant's lack of insight and recognition of the issues that have led to their distress.
45. The Appellant then cross-examined the witness.
- a. Prior to cross examination, the Appellant was again reminded that she was expected to be respectful of the witness and to allow her to answer the questions posed without interruption.
 - b. In her cross examination of Dr. Craigdallie, the Appellant resumed an aggressive style of questioning. The Appellant demanded to know how many times Dr. Craigdallie had changed her protective boots on the day of the seizure, arguing that the lack of sanitary conditions in her home was the result of mud tracked into it by those present on the day of the seizure. Dr. Craigdallie replied that she did not exit the home but merely handed crates of cats to those outside through the door of the motorhome, that they all wore biohazard suits, hair nets, masks and booties and that she had changed her paper booties many times to avoid cross-contamination. The Appellant suggested that it was mud not feces left on her duvet after Dr. Craigdallie had stood on her bed, to which Dr. Craigdallie replied that she had knelt on the bed only and that the feces were there when she'd entered the bedroom. The Appellant told Dr. Craigdallie that she was lying.
 - c. The Appellant continued to address the witness as "Ms." The Presiding Member intervened and instructed her to use the address "Doctor" in her cross-examination of the witness. The Appellant challenged the Panel on this point ("Do I have to? Why?")
 - d. When the Appellant asked Dr. Craigdallie to admit that during the seizure she had told the Appellant that the cats appeared in relatively good condition, Dr. Craigdallie replied in the affirmative, but noted that upon examination, 38% had ear, nose or eye discharges, 25% had soiled testicles and/or an ammonia smell to their fur and 11% had facial wounds. The Appellant challenged Dr. Craigdallie, saying this was untrue, that all were in good health and any such symptoms had occurred after they were in the Society's care. When Dr. Craigdallie said seven cats were pregnant, the Appellant told Dr. Craigdallie that this was impossible and that she was lying.

46. At this point, having received numerous warnings from the Panel during the hearing and during her cross-examination of Dr. Craigdallie, the Presiding Member interrupted the proceedings, told the Appellant that her cross-examination was over, and asked the Society to call their last witness.
47. After being sworn in, APO Sandra Windover testified to events on the day of seizure. Her evidence is summarized in paragraphs 20- 23 and 25 of Background. In her testimony and subsequent cross examination, the following additional evidence was presented:
 - a. APO Windover testified that ACO Blasak told her that the Appellant said she had been forced to sleep in her car off the property because of the strong smell of ammonia in the large motorhome.
 - b. APO Windover testified that on arrival at the Appellant's premises on September 26, she noticed a strong smell of ammonia some distance from the motorhomes, that the front window was covered in a brownish film with pieces of cat hair adhering to it from the inside, and that duct tape had been used to seal the window. APC Windover testified that she had asked to speak with the Appellant but she refused and asked them to leave her property.
 - c. On the day of the seizure, APO Windover testified that the motorhome was wet and soiled, with cats "everywhere". There was no food out, and there were two makeshift cardboard litterboxes that were overflowing with feces. The catio was filled with mud, there was water in the litterbox, and the smaller motorhome was wet, dirty, and filled with feces. Ammonia testing returned levels of 20-50 ppm in the larger motorhome and over 50 ppm in the smaller one.
 - d. Prior to cross examination, the Appellant was again reminded that she was expected to be respectful of the witness and to allow her to answer the questions posed without interruption.
 - e. In her cross examination of APO Windover, the Appellant asked how many complaint calls the Society had received about the Appellant's cats. APO Windover replied she was unsure. The Appellant then asked how many inspections had been carried out. APO Windover replied there had been no successful inspections because the Appellant did not permit access. The Appellant accused APO Windover of lying, saying she had been able to look in the window to see everything was fine. APO Windover added that during her June visit to the property, the Appellant refused to divulge the number of animals she had, refused to allow access to inspect their living conditions and asked her twice to leave the premises. APO Windover reminded the Appellant that her prior visits were part of a separate file, and that she was there today to respond to questions regarding the date of seizure.
 - f. The Appellant told APO Windover that the conditions of distress were invented to retaliate against her because of the lawsuit she was bringing against the District of Squamish for the theft of the Appellant's three cats over the summer. She told APO Windover that ACO Blasak had told her the District

could not legally seize her cats because they were outside their jurisdiction. The Appellant said the District had, for this reason, coached her landlord to trap them and turn them over to the Society, something he never would have done if not coached to do so. The Appellant asked APO Windover if she knew about the lawsuit the Appellant was bringing against the District and the Society. APO Windover said she was unaware of it. The Appellant told APO Windover she was lying; that retaliation for this pending lawsuit “was the cause of the seizure.”

- g. The Presiding Member again reminded the Appellant of the need for courtesy and respect in her cross examination, and that her questions should be directed to conditions on the day of the seizure. The Appellant again accused the Presiding Member of bias.
- h. The Appellant demanded to know why APO Windover assured her on the day of the seizure that the cats would be taken to a “lovely environment”, suggesting that this was because APO Windover recognized the cats were so well cared for and felt such assurances were important. APO Windover replied that she was trying to reassure the Appellant, hoping she would not become irate and necessitate the presence of the RCMP.
- i. The Presiding member again reminded the Appellant of the need for courtesy and respect in her cross examination.
- j. The Appellant demanded to know why APO Windover did not take pictures of her home the day of the seizure, arguing that no pictures were taken because they would have shown that there were no unsanitary conditions. APO Windover replied it was not her role to take photos; she was there to facilitate the seizure. The Appellant noted there were photos taken of the ammonia strips and demanded to know why other photos were not taken. The Appellant’s cross examination of the witness again moved from questioning to badgering, and as APO Windover attempted to respond, the Appellant kept cutting her off.
- k. At this point, the Presiding Member interrupted the proceedings, told the Appellant that her cross-examination was over, and asked the Parties, after a 10-minute recess, to be ready to make their closing summations.

SUBMISSIONS OF THE PARTIES

X. The Appellant

48. In her summation, the Appellant made the following points:
 - a. On the date of the seizure, there was no distress. Issues yes, distress no. The number of cats she owned was not an issue. All her cats were healthy and happy.
 - b. The Squamish By-Law Department is in “cahoots” with the Society in coaching people to engage in criminal activity by stealing her animals. After the

Appellant told the Society that she was going to sue them and the District of Squamish for criminal activity, the allegations of distress were invented to discredit her. The warrant to subsequently seize her animals - based on perjury - is a cover up. The Society timed the warrant to coincide with heavy rains in order to assure poor conditions.

- c. The animals that died in the Society's care did so because of treatment they received that made them ill; they were not being well kept.
 - d. The Appellant submitted that the PCAA distinguishes between distress and critical distress. The vet had disclosed the Animals were not in critical distress. The Appellant therefore argued that the Society had no right to seize the Animals unless the Animals were in critical distress. The cats were not in distress and should not have been seized.
 - e. The experience has been emotionally draining for the Appellant. The Society broke her computer during the seizure.
 - f. There were no space issues, the Appellant dedicated her space to the cats. She had opened up cupboard for the cats as they liked to be in there. There was no brown film on the windows the day of seizure.
 - g. The video she submitted of all the cats the day before the seizure shows there were no unsanitary conditions. The lack of photographic evidence by the Society supports her assertion that the seizure was a cover up; if photos had been taken they would have shown there were not unsanitary conditions.
 - h. The Search Warrant was a reckless disregard for the truth based on perjured content. None of the cats had infections or facial wounds on the date of seizure.
 - i. All the evidence has been fabricated. The conditions testified to by the Society did not exist. The Society could easily have put black on their noses and dirt on their paws to create the appearance of distress. The alleged pregnancies in the cats that were seized is a lie. The cats could not have been pregnant. There was no duct tape on the windows, there was proper ventilation.
 - j. This is all about retaliation.
 - k. The Appellant wants her cats returned, is willing to cover her catio, have it inspected, whatever it takes, and would consider having the Society help her rehome some of the animals.
49. With respect to costs, the Appellant made the following points:
- a. The Appellant is the one who is owed money for pain and suffering.
 - b. The Appellant should receive compensation for this, and the longer it takes the more compensation is owed to her.

XI. The Respondent

50. In her summation, Ms. McConnell, counsel for the Society, made the following points:
- a. The seizure was justified based on the definition of distress in the PCAA.
 - b. As the hearing panel in McIntosh v BCSPCA November 12, 2021 most recently affirmed, the definition of distress is broad, and the Society does not have to establish an actual deprivation or harm to animals before determining the animals are in distress.
 - c. As the hearing panel in Foulds v. BCSPCA, December 9, 2020 held, it is not necessary to find every animal to be in immediate physical distress to justify seizure.
 - d. The Appellant's Animals lacked the space to withdraw from one another, their housing conditions promoted uncontrolled breeding, the amount of feces and urine created unsanitary conditions, three litter boxes were insufficient for the number of animals, the high ammonia levels found in the motorhomes were evidence of poor ventilation, and all of these factors resulted in negative consequences for animals and people. Ms. McConnell noted that the conditions in the small motorhome were even worse.
 - e. Even if Appellant was correct that there were more litter boxes, that would not have been enough to give proper bathroom space and prevent inappropriate urination.
 - f. The above conditions are unacceptable and resulted in life threatening issues for the Animals that would only increase over time. Observed eye, nose and ear discharges are already present. The cats with infectious viruses represent a danger to the other cats. Seven cats were pregnant at the time of seizure, and it would only have been a matter of time until the population exploded.
 - g. The number of cats that are underweight likely reflects competition for food, and there is no age-appropriate feeding plan to meet the nutritional needs of animals at different life stages. The existence of chin and lip lesions are evidence of inadequate control. Viruses threaten the whole population.
 - h. The Appellant's unwillingness to acknowledge that 71 cats were seized (insisting there were only 35 or less) demonstrates that she cannot monitor the animal husbandry and health needs of the Animals.
 - i. The fact that the Animals were seized after three weeks confinement means that things would have become worse over time.
 - j. The seizure was justified under the PCAA. The Appellant brought up the issue of not being given the opportunity to rectify issues, but the Appellant was unwilling to acknowledge some of the issues which speaks to her inability to follow through on remedying the distress causing conditions.
 - k. With respect to whether the Animals should be returned to the Appellant, the Society takes issue with the Appellant's statement that she is not opposed to

remedying conditions - since she fails to acknowledge the existing problems, how can she remedy them? The Appellant has said she would clean her premises, cover the cattio, and rehome some of the cats, but has offered no evidence to date of any of this. The Appellant demonstrates a lack of awareness of the conditions that have caused the distress and a lack of any concrete plan as to how to remedy them. In the Appellant's written submission (Tab 32), evidence of her denial is clear.

- I. All of this supports the Society's decision not to return the animals to the care of the Appellant.
51. With respect to costs, Ms. McConnell referenced the Society's detailed invoice submitted in support of the following costs which the Society is seeking from the Appellant:
- a. \$ 21,826.33 Veterinary Costs
 - b. \$ 410.85 Seizure staff costs
 - c. \$ 48,060.00 Care Costs
 - d. \$ 70,297.18 TOTAL COSTS

XII. Appellant's Reply

52. In her reply, the Appellant made the following points:
- a. The Appellant acknowledged there were some issues, but insisted that the animals were not in distress, that there was no smell of ammonia outside the motorhomes, and that the cats were healthy and happy.
 - b. The Appellant acknowledges the number of Animals and breeding was a problem, but notes she was taking preventative measures by keeping the males in the smaller mobile home. The Appellant never had a problem with the number of cats and feels animal numbers should not be of concern to the Society unless there are concerns with inadequate space. The Appellant considers the smaller motorhome to be a tiny house for the cats and that it provides adequate housing for them since they had access to the outside, to wooden structures to play on, and scratching posts. They were healthy and happy animals.
 - c. The Appellant believes these were minor issues. The Animals had access to water at all times and were free fed. None were underweight. Ragdoll cats are always skinny. The Society was informed that ovariohysterectomies were planned for some of her cats.
 - d. The Appellant asserts the Society had no business "busting into her premises" with a perjured search warrant. The Appellant does not believe the readings of the ammonia strips and further contends that it was those involved in the seizure who put the cats in the cupboards and in the outside hatches.

- e. The Appellant believes the Society tore up her house and made it filthy and is now killing her animals in their care.

XIII. Analysis and Decision

- 53. The first observation the Panel wishes to make is that it is clear the Appellant loves her many cats, and the stress their seizure has created in her life was evident in her demeanour throughout this hearing.
- 54. Although the Appellant required frequent reminders of the need to address witnesses with respect and courtesy, the Appellant was given as much latitude as possible, given the time constraints of the hearing, to tell her story. This meant that the Appellant often strayed into areas not relevant to the matters before the Panel. When this happened, the Presiding Member tried to allow the Appellant some latitude before bringing her back on track.
- 55. However, mindful of the duty of fairness owed both parties, the Panel was obligated to also maintain order and bring the hearing to a conclusion at the end of the day. On occasion, this required cutting off the Appellant's microphone when she chose to talk over other witnesses and/or the Presiding Member.
- 56. Two images came frequently to mind while writing this Decision. One was the image of the poor mother cat giving birth during the seizure while being suckled by two older kittens. The other was the anguish in the face of the Appellant over the loss of her cats. Both were a source of sadness as I wrote this Decision.
- 57. Had the Appellant been able to find the acreage she wished for to set up a cattery, things might have turned out differently. The impossibly small space in which the 71 cats were living, coupled with a rapidly expanding population that was the inevitable result of sexually mature and intact animals housed together, created conditions that rapidly spun out of control. These Appeals are never easy. This one was no exception.
- 58. Part 2.1 of the PCAA establishes the standards of care for animals and establishes a duty on those responsible for the animals to ensure those standards are met:
 - 9.1 (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.
 - (2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.
- 59. Part 3 of the PCAA sets out the role for the Society in the event that an animal is determined to be in distress:
 - 11. If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal

- (a) does not promptly take steps that will relieve its distress, or
 - (b) cannot be found immediately and informed of the animal's distress,
- the authorized agent may, in accordance with sections 13 and 14, take any action that the authorized agent considers necessary to relieve the animal's distress, including, without limitation, taking custody of the animal and arranging for food, water, shelter, care and veterinary treatment for it.

60. The definition of "distress" in Part 1 the *PCAA* provides:

- 1 (2) For the purposes of this Act, an animal is in distress if it is
- (a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
 - (a.1) kept in conditions that are unsanitary,
 - (a.2) not protected from excessive heat or cold,
 - (b) injured, sick, in pain or suffering,
 - (c) or abused or neglected.

61. The Appellant has an onus to show that the remedy they seek is justified. As noted by Justice Groberman (as he was then) in *Eliason v BCSPCA*, 2004 BCSC 1773:

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.

62. With respect to the issue of costs Part 3, 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.

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

64. The Society is seeking costs as follows:
- | | |
|------------------------------------------------|-------------|
| a. Veterinary costs | \$21,826.33 |
| b. SPCA time to attend seizure | \$410.85 |
| c. Housing, feeding and caring for the Animals | \$48,060.00 |
| d. Total: | \$70,297.18 |
65. On the matter of costs, the Society's submissions provide detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care the Animals. The calculation of these estimates has been reviewed and supported in previous appeals. The Appellant did not contest the calculation of costs in this proceeding.
66. The first issue for the Panel to consider is whether the 71 cats were in distress at the time of seizure.
67. If the seizure of the 71 cats on September 29 was as a result of the Animals being in distress, the next issue the Panel must decide is whether to grant the Appellant's request for their return. Governing our thinking in this stage of the analysis must be whether allowing any or all of the Animals to return to the Appellant's home would return them to a situation of distress. In *Brown v BC SPCA*, [1999] B.C.J.No. 1464 (S.C.) the court explained:
- The goal and purpose of the Act is explicit in its title. It would be unreasonable, in my view, to interpret the Act as the Plaintiff's counsel suggests. In the interest of preventing a recurrence of the cause or causes leading to the animal being in the distress in the first place, the court must be satisfied that if the animal is returned to its owner, it will remain [in] the good condition in which it was released into its owner's care.*
68. In coming to a decision as to whether the animals were in distress at the time of the seizure, the Panel is guided by the following passage from *McIntosh v BCSPCA* November 12, 2021 where at paragraph (104) that Panel held:
- ...the definition of distress is broad, and the Society does not have to establish an actual deprivation or harm to animals before determining the animals are in distress. A medical finding that animals are injured or in pain is not required to conclude the animals are in distress. The definition of distress is intended to be protective and preventative. It does not require proof of actual harm; rather, it describes those circumstances that create a significant risk of harm to animals and should be avoided. When these circumstances are not avoided and conditions place animals at sufficient risk, the Act provides they can be protected.*
69. Not every animal need be in distress for a seizure to be valid. The Panel in *Foulds v. BCSPCA*, December 9, 2020 held at paragraph (209), "It is important to note that it is not necessary to find every animal to be in immediate physical distress to justify seizure."

70. The evidence presented by the Society and the Appellant differ as to whether the Animals were in distress at the time of seizure.
71. It is the position of the Society that the Animals were in distress on the day of seizure, and in this assertion, they rely on the detailed evidence of Dr. Craigdallie, D.V.M., who examined the Animals with the assistance of two colleagues and prepared detailed veterinary records for all the Animals.
72. In her 23-page report and 86-page appendix, Dr. Craigdallie provides a summary with photographs of her observations on the day of seizure. She notes a lack of ventilation, ammonia levels of 20-50 ppm in all areas, a cluttered and unsanitary living space (garbage and debris on the floors, feces on the floor and on bedding), a lack of litter boxes appropriate for the number of cats (only 2 actual and one potential litter box; none in the second motorhome), only 1 visible pot of water in each motorhome, a lack of age-appropriate nutrition, a failure to separate sexually active males and females (in main motorhome 20 females and 17 males of reproductive age), and a lack of proper oversight. She notes that given the number of cats and the similar appearances it would be impossible to adequately assess each cat's husbandry or medical needs. (Paragraph 30 of this Decision summarizes Dr. Craigsdalie's medical findings.)
73. It is the position of the Appellant that her cats were not in distress; that they were healthy happy cats, and that their September 28 seizure was not justified for the following reasons:
 - a. The seizure was an act of retaliation by the Society operating in collusion with the District of Squamish By-Law Department in an attempt to discredit her and "cover up" criminal acts (the theft of 3 of her cats over the summer) and timed to coincide with heavy rains to create conditions conducive to distress.
 - b. The warrant obtained by the Society on September 27 was based on false information and perjury and was taken out in retaliation against her because of her intent to sue both the District of Squamish and the Society for harassment and criminal activity.
 - c. Numerous visits by the Society's officers and Squamish Animal Control officers over the period October 2020 to July 2021 showed no evidence of distress.
 - d. The assertions of the Society which underly their finding of distress on the day of seizure are false. She claims the number of cats seized was closer to 35, not 71, that no cats were pregnant, that the ammonia strip readings are incorrect, that the Society itself put cats in cupboards and drawers and then photographed them to support their case and that no cats (save one) had facial wounds, lip abrasions or ear, eye and nose discharges (accusing the Society of putting black material on and in the cats ears, eyes and noses to create this impression). The Appellant contends no cats had any viruses, no cats were underweight, and no animals were in distress

74. While the Panel has some sympathy for the Appellant – the seizure of her cats has been an understandably traumatic experience for her; she obviously loves her animals and is upset that they were removed from her home – the Panel rejects the above arguments for the following reasons:
- a. The conspiracy argument. The Appellant believes that the seizure was an act of retaliation born of a conspiracy between the Society and the District of Squamish to discredit her because she was planning to sue both organizations for criminal activity (the trapping and removal of three of her cats over the summer months). The Panel has sympathy for the fact that the Appellant may have been subject to harassment by her neighbours, but this is not relevant to the matter on Appeal. The Panel finds the Appellant is being truthful when testifying to her belief that she is the victim of collusion/conspiracy and retaliation, but does not find this argument credible.
 - b. The flawed ITO and Search Warrant argument. The Appellant believes the Search Warrant was invalid because it was based on false information, and hence the seizure of her cats was improper. This argument has two parts. The first is that the address for the warrant included a pad number (“Pad 7, 59921 Squamish Valley Road) when in fact there are no pad numbers at this address. The second is that SPC Cheung perjured himself in providing the evidence contained in the ITO. The Panel finds it is entitled to rely on the validity of the warrant (see *Bagga v BCSPCA*, January 22, 2019 at paragraphs 12 to 13) With respect to the first issue, it is immaterial to the issues to be decided by this Panel whether there was a minor defect in the description of the Appellant’s address in the ITO. With respect to the second issue, challenges to the validity of the information provided in support of a warrant are reviewable through the courts and are not part of this appeal process.
 - c. The argument of “no distress” based on previous SPCA visits. In support of her position that the animals were not in distress at the time of seizure, the Appellant spent considerable time focusing on past visits of the Society’s officers (October 2020, May and June 2021) which did not result in a determination of distress. The Presiding Member explained to the Appellant numerous times in the Pre-Hearing Conference and during the hearing itself that the determination of distress under the *PCAA* applies only to conditions in existence on the day of seizure. The condition of the animals in the weeks or months prior to the seizure is not relevant with respect to the issue of distress for the simple reason that circumstances change over time and the fact that the animals were once healthy does not necessarily imply that they will remain in that state forever.
 - d. The argument that much of the evidence presented by the Society is false. The Panel finds this argument fully lacking credibility. The Appellant simply stated that Society witnesses were lying with respect to evidence that she did not appreciate without offering any contrary evidence to demonstrate that their statements were inaccurate.

75. After carefully considering and weighing the submissions of both Parties and based on the evidence presented in this hearing and the definition of distress embodied in Section 1(2) of the Act, the Panel finds that the Animals were in distress at the time of removal and that the September 28th seizure of the Animals was justified under the *PCAA*.
76. In deciding whether any or all of the Animals should be returned to the Appellant, the Panel must be guided by what is in the best interest of the Animals, and whether a return could place them at risk of further distress.
77. In coming to a determination on this matter, the Panel found the testimony of Dr. Craigdallie both compelling and relevant. While it is apparent that the Appellant loves her cats, it is also evident that she refuses to recognize, understand, or accept the conditions which led to their distress and her role in creating those conditions.
78. The Appellant's lack of insight throughout the hearing makes it difficult for the Panel to believe the Appellant has the capacity to correct the problems. It is not simply a matter of "covering the cattio". Based on her observations, Dr. Craigdallie concluded that basic husbandry and medical requirements needed to provide adequate quality of life were not met (see Paragraph 31) and that the Animals should remain in the care of the Society.
79. The Panel agrees with Dr. Craigdallie that all 77 cats should not be returned to the Appellant. Clearly the Appellant does not have the capacity to provide them with the care they need, and returning them would return them to a situation of distress.
80. In weighing the evidence before it, the Panel upholds the Review Decision of Ms. Moriarity that the 77 cats which are the subject of this Appeal should not be returned to the Appellant.
81. But the Panel is also challenged to find a way to inject compassion in this ruling. Were the Appellant able to come to terms acceptable to the Society for the repayment of costs owing to the Society, there has been no evidence presented in this hearing to suggest that returning the Appellant's four favourite cats (the limit a homeowner may own under District of Squamish By-Laws), spayed or neutered beforehand, would return them to a situation of distress. The Appellant obviously cares for her cats, and in the opinion of the Panel, looking after 4 sexually inactive animals would be manageable.

XIV. Conclusions and Orders

82. Section 20.6 of the PCAA permits this Panel 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 animal.
83. After careful consideration of the written and oral evidence presented in this hearing, the Panel makes the following determination of the issues and attendant orders;
 - a. The Panel finds the 71 cats were in distress at the time of the seizure and that it is in the interests of - at minimum - 65 of the animals plus the additional 8 kittens born subsequent to the seizure to remain in the care of the Society. The disposition of the remaining 4 animals is considered in paragraph 84.
 - b. The Panel orders pursuant to section 20.6 of the PCAA that the Society is permitted in its discretion to destroy, sell or otherwise dispose of the animals, with the obvious hope and expectation that most will be adopted unless circumstances somehow preclude that possibility.
 - c. The Panel further orders, pursuant to s. 20.6(c) of the PCAA, that the Appellant is liable to the Society for the amount of \$70,297.18 as the reasonable costs incurred by the Society with respect to caring for the 77 cats.
84. In light of the above, and pursuant to section 20.6 of the PCAA, the Panel further orders that four cats may be returned to the care of the Appellant if the following conditions can be satisfied within the stipulated time frames:
 - a. The Appellant, within 2 weeks of this decision (on or before Wednesday December 29), comes to terms acceptable to the Society for the repayment of \$70,297.18 owed by the Appellant to the Society representing the costs incurred by them associated with this seizure. The terms will be stipulated in writing and signed by both parties.
 - b. The Appellant, within 2 weeks of this decision (on or before Wednesday December 29), identifies to the Society which four cats she would like returned to her, the Society agrees with the Appellants choice of animals, and the Appellant agrees to pay the Society in advance of their release for the costs associated with their spaying or neutering.
 - c. The Appellant confirms to the Society in writing in within one week of the date of this decision (on or before Wednesday December 22) whether she accepts the terms set out a sub-paragraphs (a) and (b) above.
 - d. If the Appellant satisfies all conditions set forth in paragraphs (a) to (c) above, the four cats selected by the Appellant will remain in the care of the Society until spayed and/or neutered by the Society, after which they will be released to the Appellant's care.

- e. In the event that the Appellant fails to satisfy all of the conditions noted in paragraph (a) through (c) above within the timeframes set out therein (on or before Wednesday December 22 and Wednesday December 29) then all 77 animals that are the subject of this appeal will remain in the care of the Society and may be placed for adoption or otherwise dealt with as set out at section 20.6 of the *PCAA*, and the Appellant will remain liable to the Society for the costs set out at (a) above.

Dated at Victoria, British Columbia this 15th day of December 2021.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:

A handwritten signature in black ink, appearing to read 'Wendy Holm', written in a cursive style.

Wendy Holm, Presiding Member

APPENDIX “A” – Exhibits

Exhibit #	Date (Received)	Received from	Document
Exhibit 01	Oct 29, 2021	BCSPCA	BCSPCA no return decision – October 29, 2021
Exhibit 02	Oct 29, 2021	Appellant	Balcilek Notice of Appeal (NOA)
Exhibit 03	Nov 2, 2021	BCFIRB	Notice of Appeal Process Letter
Exhibit 04	Nov 12, 2021	BCSPCA	LT Appellant & BC FIRB encl doc disclosure
Exhibit 05	Nov 12, 2021	BCSPCA	BCSPCA Document Disclosure (Tab 1-47)
Exhibit 06	Nov 12, 2021	BCSPCA	Tab 18 – Video footage from Complainant
Exhibit 07	Nov 12, 2021	BCSPCA	Tab 33 – Video footage from Appellant
Exhibit 08	Nov 22, 2021	Appellant	Email containing written submission, summons list, blank witness contact forms
Exhibit 09	Nov 22, 2021	Appellant	Email containing updated witness contact forms
Exhibit 10	Nov 23, 2021	Appellant	Email containing video of motorcoach after seizure
Exhibit 11	Nov 23, 2021	Appellant	Email containing video of Ducky and Bandit prior to seizure
Exhibit 12	Nov 23, 2021	Appellant	Email containing Squamish Bylaw file, Photos 2 file, picture of rash on kitten
Exhibit 13	Nov 23, 2021	Appellant	Email containing videos from the seizing event September 28_2021
Exhibit 14	Nov 23, 2021	Appellant	Email containing video of RCMP
Exhibit 15	Nov 23, 2021	Appellant	Email containing updated Photos 3 file
Exhibit 16	Nov 22, 2021	Appellant	Email w 2 attachments and attachments within
Exhibit 17	Nov 23, 2021	BCSPCA	LT Appellant & BCFIRB encl submissions

Exhibit #	Date (Received)	Received from	Document
Exhibit 18	Nov 23, 2021	BCSPCA	Tabs 48-54
Exhibit 19	Nov 23, 2021	BCSPCA	Written submissions of the BCSPCA
Exhibit 20	Nov 23, 2021	BCSPCA	Affidavit 1 of Marcie Moriarty
Exhibit 21	Nov 23, 2021	BCSPCA	Expert witness contact form
Exhibit 22	Nov 23, 2021	BCSPCA	Witness contact form
Exhibit 23	Nov 23, 2021	BCSPCA	Tab 53 video footage
Exhibit 24	Nov 24, 2021	BCFIRB	Preliminary Decision
Exhibit 25	Nov 29, 2021	BCFIRB	Email Final Reply Submission not received