

IN THE MATTER OF THE *PREVENTION OF CRUELTY TO ANIMALS ACT*,
R.S.B.C. 1996, c. 372
ON APPEAL FROM A REVIEW DECISION OF THE BC SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS CONCERNING THE SEIZURE OF
ONE DOG

BETWEEN:

MATTHEW KOZYNIAK

APPELLANT

AND:

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia Farm Industry
Review Board:

Dennis Lapierre, Presiding Member

For the Appellant:

Self-represented

For the Respondent:

Siobhan McConnell, Counsel

Date of Hearing:

April 11, 2022

Location of Hearing:

Teleconference

I. Overview

1. This is an appeal pursuant to s. 20.3 of the *Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372* (the *PCAA*) related to the seizure of one dog (the Animal) from the Appellant, Matthew Kozyniak, from his property located in Chilliwack, BC (the Property).
2. The Appellant is appealing the March 10, 2022 review decision issued under s. 20.2(4)(b) of the *PCAA* by Marcie Moriarty, Chief Investigation and Enforcement Officer of the British Columbia Society for the Prevention of Cruelty to Animals (the Society) and is seeking the return of the Animal.
3. Section 20.6 of the *PCAA* permits the British Columbia Farm Industry Review Board (BCFIRB), on hearing an appeal with respect to animals, to require the Society to return the 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. The Appellant in this case is seeking the return of the Animal.
4. On April 11, 2022, a BCFIRB hearing panel (the Panel) held a hearing via teleconference. The hearing was recorded.
5. The Appellant was not represented by counsel and did not call witnesses.
6. The Society was represented and called four witnesses: Dr. Christopher Taylor, Special Provincial Constable (SPC) Christine Carey, Animal Protection Officer (APO) Cassandra Meyers and AB, a neighbour.

II. Decision Summary

7. Section 20.6 of the *PCAA* permits BCFIRB, on hearing an appeal in respect of an animal, to require the Society to return the animal to its owner with or without conditions or to permit the Society, in its discretion to destroy, sell or otherwise dispose of the animals. Under the *PCAA*, appeals to BCFIRB are broad in nature, as set out in detail in *BC Society for the Prevention of Cruelty to Animals v. British Columbia Farm Industry Review Board, 2013 BCSC 2331*.
8. For the reasons outlined below, the Panel has decided to return the Animal to the Appellant under the following conditions:
 - a) That the Appellant continue with the treatment regimen for food allergies, skin condition and ear infection recommended by veterinarian, Dr. Taylor until a veterinarian directs otherwise;
 - b) That the Appellant, within 6 months after the Animal is returned to him attend a veterinarian of his choice for the purposes of obtaining an updated health assessment of the Animal and advice as to any necessary medical treatment and periodic check ups.

- c) That the Appellant provide the Society with confirmation of the attendance at the veterinarian and a summary of any recommended treatment prescribed by the veterinarian as set out in b).
 - d) That the Appellant ensure the Animal is groomed regularly, which grooming may be done personally or professionally.
 - e) That the Appellant maintain a respectful and cooperative relationship with Society personnel in any future dealings with respect to the Animal and rely on his support system as necessary to facilitate any such interactions.
9. The Appellant is liable to the Society for its costs incurred in the amount of \$2,043.85 pursuant to s. 20 of the *PCAA*. However, the Panel declines to make its Order for return of the Animal conditional on the Appellant's payment of outstanding costs.

III. Material Admitted on this Appeal

10. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-20 and attached as Appendix A to this decision.

IV. History Leading to Seizure of Animal and the Day of Seizure

11. Exhibits submitted by the Society include a record of a complaint received September 17, 2020, of a dog being kept confined inside a home in unsanitary living conditions and that it was missing half of its fur. APO Meyers followed-up this complaint. She visited the Property and spoke with its resident who identified himself only as "Matt". Matt denied owning a dog and was uncooperative. She saw no dog but did detect strong feces odours, later noted as likely poor septic odour emitting from inside the premises (Tab 12 p.43). On September 25, 2020, APO Meyers spoke with the complainant, who was unwilling to provide a statement out of concern about the owner's mental health.
12. On November 1, 2020, the SPCA recorded a second complaint of a black Labrador-type dog in the backyard of the Property that was missing patches of hair; was not looking well and may have had a condition that was not being looked after.
13. On November 4, 2020, while viewing the Property from an adjacent public park APO Meyers spoke with two adolescent youths who described a dog, which lived on the Property, that was missing all of its hair. Again, APO Meyers saw no dog.
14. On November 12, 2020, she spoke with the second complainant who was also unwilling to provide a written statement out of concern about the mental state of the dog's owner.

15. On November 18, 2020, SPCA member SPC Jarett Marleau visited the Property. He saw no dog and, though he heard music and saw movement inside the dwelling, received no response to his knocking. He posted an SPCA Notice requesting contact. There was no response and the file was closed.
16. On February 13, 2022, the SPCA received a complaint from a neighbor to the Property who observed a dog in its backyard that was constantly scratching, was missing “tons of fur”, and appeared to have mange. While not often seeing the dog in the yard, the complainant often heard it vocalizing from within the dwelling. On February 17, 2022, this complainant, AB, provided APO Meyers a written statement, which outlined her observations and concerns.
17. On February 18, 2022, APO Meyers visited the Property and, upon receiving no response to her knocking, posted a Notice on the door requesting return contact. While there, APO Meyers saw a note posted on the door stating, “Do not disturb before noon, Ever!” While there, she detected a strong odour of dog coming from a blanket bearing a build-up of black fur that was draped over a railing at the top of the steps. While she saw no dog, she could hear the movement sounds of one inside.
18. On February 22, 2022, SPC Christine Carey visited the Property and, finding the Notice posted by APO Meyers missing, posted a new Notice instructing the animal owner to contact her by 12:00 hours February 23, 2020. Receiving no response, SPC Carey sought and obtained a Warrant to Search, which she executed at the Property the afternoon of February 23, 2022.

V. Review Decision

19. On March 10, 2022, Ms. Moriarty issued her review decision in which she outlined her reasons for not returning the Animal to the Appellant (the “Review Decision”). Ms. Moriarty applied the relevant statutory test as described in *Brown v BCSPCA*, [1999] B.C.J. No. 1464 (S.C.), where at paragraph 22 the judge stated:

The goal and purpose of the Act is explicit in its title. It would be unreasonable, in my view, to interpret the Act as plaintiff’s Counsel suggests. In the interest of preventing a recurrence of the cause or causes leading to the animal being in 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.

She reviewed the Notice of Disposition, the Warrant and Information to Obtain, the Information Follow-up Notes, an email from the complainant, the BC SPCA Notice, the BC SPCA Physical Intake forms, the Historical Inspection Follow-up, veterinary records, various photographs, and various email submissions from the Appellant and sent on the Appellant’s behalf. She stated:

I now have 3 separate witnesses who were concerned enough with what they observed to contact the BC SPCA. As the history of reports indicate, the concerns for Radar’s health have been ongoing for years. Radar has been left in distress as a result of lack

of action on your part and being neglected and deprived of adequate care. In the past two years that Radar has been having these issues, no member of your support system had stepped in to ensure that Radar got the help she needed as well. We had attempted to contact you to address these concerns on multiple occasions to no avail. In the sole instance APO Meyers spoke with you, you did not wish to discuss these concerns and you denied owning a dog at that time. In the present file, multiple Notices were left explaining the complaints we had received and requesting you to reach out to avoid legal action, but you made no attempts to take action. This lack of action on your part both in these investigations and for Radar's health make me question what would happen if Radar was returned to your care.

Ultimately, I need to be confident that if Radar were to be returned that she would remain free from distress. After considering the above, I simply cannot conclude that it would be in the best interest of Radar to be returned to you. I am not confident that should she be returned to you, that you would be able to deliver her timely and consistent veterinary care. While I believe that you love Radar deeply and care about her, unfortunately, you have not been able to mobilize on the concerns relayed to you and so have not taken Radar to receive the veterinary care she needed. This is a very difficult decision, but I do not believe it is in Radar's best interest to be returned to you.

VI. Key Facts and Evidence

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

Appellant's Evidence and Testimony

21. The Appellant submitted a letter dated March 3, 2022 where his stepbrother, acting as his designated spokesperson in the Society's review process, conveyed the Appellant's apologies for the way he handled the situation. The letter explains the Appellant's disability (Asperger's Syndrome) and its ramifications and states the Appellant does not handle confrontation or authority well. The Appellant has had the dog since it was a pup and it has been the one consistent thing in his life. The letter also confirms the stepbrother's willingness to be part of his support system.
22. A friend, L.K, assisted the Appellant in the review process and in filing his appeal. In an e-mail dated February 24, 2022, she states "Matt does not do well with authority figures and gets overwhelmed easily because of the Asperger's."
23. Mr. Kozyniak is 53 years of age. He did not go past grade 9 in school and he described not comprehending what he reads and instead achieving understanding

by other means such as talking with others and by watching television. He says he can read the same thing over again but it never sinks in. He learns in other ways.

24. He described past trouble with the neighbors who left food out for his dog which resulted in it developing allergies. The dog, Radar, started shedding fur about four years ago, so he kept it inside to protect it from the neighbors. He lets the dog out at around 10:00 -12:00 pm. The dog plays outside and he walks it around the yard.
25. He admitted that he had been busy for the last year and hadn't been taking care of the dog. He does a lot of volunteer work and has a part-time job. He said the dog eats with him every day and sleeps with him on his bed.
26. He has lived at the Property for 20 years, owns the Property, and has had the dog eight or nine years and since it was a puppy. He owned both its mother and its grandparents. He has had this dog and its preceding relatives for 35 years. Previous dogs had similar skin allergy issues.
27. He testified that his dog's skin condition had shown up about six months ago after being in the neighbor's yard. It has allergies to bread or grains and has a problem with excessive candida, which he described as a yeast-related infection.
28. He has taken the dog to a veterinarian, but only 2 or 3 times. His daughter had taken it to the veterinarian for its vaccinations. He explained that the dog didn't start having skin conditions until about three or four years ago and that he had been treating the condition with home remedies. He described the condition as a shedding that wouldn't end, but then the dog would start growing its coat back again.
29. When asked if he had spoken to a veterinarian about this condition, he stated he had been looking for a groomer. He didn't take the dog to a veterinarian because he believed in holistic practices, which he administered himself; bathing the dog monthly with apple cider vinegar added to the water, using oils, including oregano and rosemary oil to kill pathogens, and administering Canesten, an anti-fungal medication he learned about through his own research. He bought it and found that it worked. He administered ½ a tablet.
30. With respect to the dog's overgrown nails, has said he had had the nails done regularly until 1 ½ years ago when the girl that did them left. He didn't like doing them himself. He hadn't noticed that the dog had developed overgrown nail issues.
31. He confirmed he walks the dog two to three times per day in his yard for five to ten minutes each time.
32. When asked whether he noticed the dog was itchy, he said yes, that it had just gone through a coat change. He felt the dog's skin issues were caused by it rolling on the ground on rotting leaves.

33. When asked why he denied owning a dog to the attending SPCA officer when she visited his Property, he said that he doesn't "contract" with government agencies. He did see the Notices but chose to ignore them and that while he was aware of the SPCA, thought he was being visited by an animal control officer.
34. In response to a Panel question about how he would propose to care for the dog if it was returned to him, he stated his friend L.K., who is a dog groomer who deals with hard to care for animals has volunteered to help him with the dog's nail and skin issues. He also indicated he was willing to take the dog to a veterinarian if it was returned to him, if he was satisfied that veterinary treatment would be helpful. He is suspicious of their treatments and is suspicious of all medicines.
35. In response to further care questions, he said his friend, L.K. lived only 20 minutes away, that he had spoken to her and she had offered to help, but he hadn't yet spoken to a veterinarian. With respect to whether he noticed the dog's discomfort, he conceded he had noticed and that he had been slack in dealing with it. He now better understands the duty of a dog owner.
36. In terms of his financial capability to care for the Animal, Mr. Kozyniak says he earns \$1100-\$1200/month. He does a lot of volunteering and his home is paid for.
37. In response to Panel questions about what the dog is fed, he explained he knows what food to avoid and feeds it Canadian Natural Brown Rice. He wasn't sure if he could afford a specific hypoallergenic diet for the dog. That depended on the cost. He explained his support system, mentioning L.K. and his daughter who knows what is going on and took the dog to the veterinarian for shots in 2017.

Respondent Witnesses:

APO Cassandra Meyers

38. APO Meyers visited the Property on September 18, 2020, in response to a complaint and spoke to the Appellant. While being able to detect the smell of dog and dog feces from inside the dwelling, saw no dog. The Appellant, who stepped outside to speak with her denied owning a dog and was unwilling to identify himself or cooperate with her before returning to his dwelling.
39. On November 4, 2020, responding to a second complaint, she spoke with two children while observing the Property from an adjacent public park. The children wondered if she was there because of the dog that lived on the Property that was "missing all of its hair".
40. At her request, SPC Marleau attended the Property November 18, 2020 and left a Notice but there was no response.
41. On February 17, 2022, she spoke to another complainant who described a dog on the next-door property that had been scratching itself for a long period of time and

was missing lots of fur. The next day, APO Meyers visited the Property and there was a note on the door stating "Do not disturb before noon – ever". She received no response upon knocking but did notice a blanket covered with black dog fur draped over a railing and could hear the sounds of dog movement inside the dwelling.

42. She assisted in the execution of the warrant on February 23, 2022. The Appellant wasn't home but she located a dog in the kitchen area, that had been blocked to prevent the dog from accessing other parts of the house.
43. APO Meyers stated that the dog's skin showed signs of medical neglect, that it was shaking its head and had runny eyes. She was not concerned about the condition of the living area.
44. She spoke to the Appellant the next day about his attitude towards authority, learning then about his Asperger's syndrome and about his friend L.K. who works at a nearby veterinary clinic.

SPC Christine Carey

45. SPC Carey applied for and executed the warrant on February 23, 2022 in company with APO Meyers and two RCMP Officers. Having received no response after knocking at the door, she gained entry after one of the RCMP Officers climbed through a window.
46. She described finding the dog in the kitchen, noting that it smelled of a yeast infection; its nails were extremely long, there was dander on its skin and it appeared to have infections around its eyes. It was scratching itself.
47. She described the condition of the house as being relatively neat, as was the yard. It was cluttered, she said, but neat. She testified that had the Appellant been home, she would have given him the opportunity to correct the problems the dog was having.

A.B.

48. A.B. lives next door to the Appellant on an adjoining property and has lived there since July 2021. She complained to the SPCA on February 13, 2022 after watching a dog scratching itself. It seemed to be in poor condition; was missing fur, had matted hair around its ears, and its skin was pink and flaky. This was the first time she had seen the dog. Up until then, there were blackberry bushes between the properties which blocked her view. She had phoned the SPCA wanting the dog to get a wellness check.

Dr. Christopher Taylor, D.V.M.

49. Dr. Taylor is licensed to practice veterinary medicine in British Columbia. He currently practices at Coastal Rivers Pet Hospital in Abbotsford where, as part of his practice he treats dogs. He was qualified as an expert in the treatment of dogs, and this was his first time appearing before BCFIRB on an SPCA matter.
50. Dr. Taylor examined the dog February 24, 2022, describing it as being middle-aged, unkempt, with overgrown nails and showing wear on its front incisor teeth. He described the dog as having a severe skin disease, experiencing a discharge from its eyes, and showing signs of an ear infection. The dog was missing a lot of hair and there was visible evidence of dander, which he described as being a result of “kennelification” and “lichenification” (a thickening of the skin). He suspected the primary causes of these conditions were food allergies as opposed to environmental allergies. With respect to the dog’s overgrown nails, he felt that as some of the nails were over two inches in length, they would have taken some time (perhaps up to three years) to grow.
51. With the exceptions of its skin problems and nail conditions, Dr. Taylor described the dog as being in good condition.
52. Dr. Taylor’s prescribed treatment included medicated shampoo, a hypoallergenic diet, an anti-fungal and an antiparasitic drug just in case a parasite problem should develop. There was no evidence the dog was suffering parasite problems currently.
53. When he last observed the dog on March 17, 2022, the dog’s skin had improved, its itchiness had resolved, and it was showing definite signs of improvement. Photographs received in evidence confirmed visible improvement in the dog’s condition.
54. Dr. Taylor attributed the wear on the dog’s teeth to chewing at its hair. At some point in the future, the dog would need to have one tooth extracted.
55. With respect to Canesten, he acknowledged that while veterinarians do prescribe this drug, he did not see it helping in this case.

VII. Analysis and Decision

56. Before discussing the reasons for this decision, a few comments regarding the Panel’s assessment of the Appellant are in order. As stated above, the Appellant has Asperger’s syndrome and has issues with authority figures and “government”. This attitude was prevalent at the outset of the hearing where he exhibited a hostile, aggressive and defensive demeanour. However, as the hearing progressed, the Panel was struck by the Appellant’s candour and his readiness to admit his failings with respect to his caring for his dog while at the same time exhibiting deep compassion. When faced with the observations and conclusions of

the Society's officers and Dr. Taylor, the Appellant was not defensive and expressed a desire to learn and do better which the Panel found credible, believable, and persuasive. More will be said on this finding below.

57. Turning now to the analysis, Part 2.1 of the *PCAA* establishes the standards of care for animals and establishes a duty on those responsible for the animals to ensure those standards are met:

9.1 (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.

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

11 If an authorized agent is of the opinion that an animal is in distress and the person responsible for the animal

(a) does not promptly take steps that will relieve its distress, or

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

58. The definition of "distress" provides:

1 (2) For the purposes of this Act, an animal is in distress if it is

(a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,

(a.1) kept in conditions that are unsanitary,

(a.2) not protected from excessive heat or cold,

(b) injured, sick, in pain or suffering, or

© abused or neglected.

59. This appeal has proceeded on the basis that the Appellant has an onus to show that the remedy he seeks (return of the Animal) is justified. The first issue to consider is whether the Animal was in distress at the time of seizure. Depending on the answer to that question, the next issue is to decide whether it is in the Animal's best interest to be returned or whether doing so would return it to a situation of distress.

Was the Animal in Distress?

60. The Panel agrees with the Society that the history of complaints is indicative of long-standing concerns for this dog's health. The consistency of the complaints, coupled with the recent complaint from A.B., which the Society ultimately acted upon, suggest the dog had been suffering for an extended period of time. At the time the warrant was executed, the observations of APO Meyers and SPC Carey

confirmed the dog was in distress; it was suffering from an apparent skin condition resulting in itching and hair loss and had significantly overgrown nails.

61. On examination, Dr. Taylor confirmed the dog was unkempt, with overgrown nails and wear on its front incisor teeth. He observed severe skin disease, eye discharge and signs of an ear infection. The dog was missing a lot of hair; there was visible evidence of dander and thickening of the skin likely due to food allergies.
62. Significantly, the Appellant did not dispute the condition of his dog and admitted it was a result of his becoming “slack” in dealing with the dog’s ongoing needs.
63. Based on the foregoing, the Panel finds that the dog was in distress at the time of seizure as a result of lack of veterinary care to treat its allergy and related skin condition. For that reason, I conclude that the seizure was justified.

XI. Return of the Animal

64. The Society argues that it is not in the best interest of the Animal to be returned to the Appellant. Multiple individuals contacted the Society over two years to report concern for the Animal’s well-being indicative of prolonged distress. The Appellant testified to managing the dog’s condition with Canesten and baths. However, the dog’s condition upon seizure did not reflect recent bathing or management of the infection. The Society points to the stark contrast in the photographs taken at the time of intake to those taken more recently.
65. The Society argues its mandate is not to educate animal owners through the issuance of Notices. Animal owners are responsible to ensure they can care for their animals and to prevent them from falling into distress. It is not enough for an animal owner to claim ignorance rather they have a positive duty to educate themselves on appropriate standards of animal husbandry. While the Appellant says that as a result of the seizure, he now knows what to do, the fact remains he was unwilling to do what was necessary for his dog’s care and unwilling to cooperate with the Society to the point he even lied about owning a dog.
66. The Panel heard testimony from the Appellant of his long history with the dog and its parents. The dog was a product of parents and grandparents he had owned through the years. The Appellant described his misguided but otherwise caring efforts to help alleviate his dog’s skin condition, including monthly bathing and home remedies. Having recognized that it suffered food allergies, he tried adjusting its diet to address the issues. He regularly exercised his dog and made efforts to keep his dog away from food that was harmful to it.
67. The testimony of SPC Carey was that both the Appellant’s yard and house were cluttered but neat. Certainly, there was no suggestion that the dog’s living environment was unsanitary or unsafe. Significantly in the Panel’s view,

SPC Carey stated that had the Appellant been home, she would have given him the opportunity to correct the dog's problems and not proceeded with the seizure.

68. The Panel observed that the Appellant had insight into his failings. In a letter dated March 3, 2022, the Appellant apologized for the way he handled this situation and explained his disability and its ramifications. He acknowledged not handling confrontation or authority well. He described the dog as the one consistent thing in his life. He identified his step-brother as part of his support system. The Appellant also produced an email from his friend L.K. that explained "Matt does not do well with authority figures and gets overwhelmed easily because of the Asperger's."
69. Despite his issues with authority and his rather hostile demeanour at the outset of the hearing, the Panel observed that the Appellant listened carefully to evidence of the Society's witnesses. The Appellant readily agreed with Dr. Taylor's analysis and recommendations about the dog's needs, expressing an appreciation for what he had learned from Dr. Taylor's testimony. The Appellant agreed that if the dog was to be returned, he would respect and follow through with Dr. Taylor's treatment recommendations. The Appellant also identified a support system that could assist him in caring for his dog including his stepbrother, friend L.K. and his daughter.
70. In considering whether to return the dog, the Panel has applied the analysis in *Brown v BCSPCA*, [1999] B.C.J. No. 1464 (S.C.), where at paragraph 22 the court stated:

The goal and purpose of the Act is explicit in its title. It would be unreasonable, in my view, to interpret the Act as plaintiff's Counsel suggests. In the interest of preventing a recurrence of the cause or causes leading to the animal being in 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.
71. In considering whether the dog will remain in good condition, the Panel has considered the Appellant's circumstances, his written apology, the evidence of SPC Carey that she would have worked with the Appellant had he been home, coupled with the Appellant's recent insight into his failings and his identified support network. These factors lead the Panel to conclude that the Appellant's commitment made during the course of the hearing of his intention to trust and follow veterinary direction are genuine and heartfelt.
72. Based on the foregoing, this Panel is satisfied that if the Animal is returned to its owner on appropriate and supportive conditions, the likelihood is high that it will remain in good condition and free of distress.

XI. Costs

73. 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.

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

75. The Society is seeking costs as follows:

(a) Veterinary costs:	\$659.55
(b) SPCA time to attend seizure:	\$273.90
(c) Housing, feeding and caring for the Animals:	<u>\$1,110.40</u>
Total:	\$2,043.85

76. The Society provided detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care of the Animal. The calculation of these estimates has been reviewed and supported in previous appeals. The Appellant did not dispute the reasonableness of the Society’s claim for costs.

77. In accordance with s. 20 of the *PCAA*, the Appellant is liable to the Society for its costs incurred in the amount of \$2,043.85. However, the Panel declines to make its Order for return of the Animal conditional on the Appellant’s payment of outstanding costs. If the Panel were to make such an order in the circumstances of this case, it, in effect, could delay or prohibit the return of the Animal to the Appellant where the Panel has already determined that it is in its best interests to be returned to the Appellant.

XI. Order

78. For the reasons outlined above, the Panel has decided to return the Animal to the Appellant under the following conditions:

- a) That the Appellant continue with the treatment regimen for food allergies, skin condition and ear infection recommended by veterinarian, Dr. Taylor until a veterinarian directs otherwise;
- b) That the Appellant, within 6 months after the Animal is returned to him attend a veterinarian of his choice for the purposes of obtaining an updated health assessment of the Animal and advice as to any necessary medical treatment and periodic check ups.
- c) That the Appellant provide the Society with confirmation of the attendance at the veterinarian and a summary of any recommended treatment prescribed by the veterinarian as set out in b).
- d) That the Appellant ensure the Animal is groomed regularly which grooming may be done personally or professionally.
- e) That the Appellant maintain a respectful and cooperative relationship with Society personnel in any future dealings with respect to the Animal and rely on his support system as necessary to facilitate any such interactions.

Dated at Victoria, British Columbia this 25th day of April 2022.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Dennis Lapierre, Presiding Member

Appendix “A”

Exhibit #	Date (Received)	Received from	Document
Exhibit 01	Mar 10, 2022	BCSPCA	BCSPCA Kozyniak Decision Letter – March 10, 2022
Exhibit 02	Mar 14, 2022	Appellant	Kozyniak NOA (combined)
Exhibit 03	Mar 15, 2022	BCFIRB	Kozyniak v BCSPCA P2205 – NOA Process letter
Exhibit 04	Mar 22, 2022	BCSPCA	BCSPCA LT all encl doc disclosure
Exhibit 05	Mar 22, 2022	BCSPCA	BC SPCA Document Disclosure – Tab 1 to Tab 27
Exhibit 06	Mar 31, 2022	Appellant	Kozyniak Appeal Letter
Exhibit 07	Mar 31, 2022	Appellant	Kozyniak Submissions
Exhibit 08	Mar 31, 2022	Appellant	Key Points
Exhibit 09	Mar 31, 2022	Appellant	Veterinary Reports for Radar
Exhibit 10	April 4, 2022	BCSPCA	SPCA LT Appellant BC FIRB encl Submissions, Affidavit, witness forms and add. doc disc.
Exhibit 11	April 4, 2022	BCSPCA	Written Submissions of the BC SPCA
Exhibit 12	April 4, 2022	BCSPCA	Sworn Affidavit of Marcie Moriarty
Exhibit 13	April 4, 2022	BCSPCA	BC SPCA Document Disclosure Index – Tab 1 to Tab 31
Exhibit 14	April 4, 2022	BCSPCA	SPCA’s PCAA Expert Witness Form
Exhibit 15	April 4, 2022	BCSPCA	SPCA’s PCAA Witness Contact Form
Exhibit 16	April 4, 2022	BCSPCA	Tab 28

Exhibit #	Date (Received)	Received from	Document
Exhibit 17	April 4, 2022	BCSPCA	Tab 29
Exhibit 18	April 4, 2022	BCSPCA	Tab 30
Exhibit 19	April 4, 2022	BCSPCA	Tab 31
Exhibit 20	April 8, 2022	BCFIRB	Email Kozyniak v BCSPCA – Appellant Final Submission not Received