

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  
ELEVEN DOGS, THREE CATS, SEVEN BIRDS, EIGHT RATS AND EIGHT AQUATIC  
SPECIES OF FISH, SHRIMP AND INVERTEBRATES

**BETWEEN:**

F. M.

**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:

F. M.

For the Respondent:

Andrea Greenwood, Counsel

Date of Hearing:

September 26, 2023

Location of Hearing:

Teleconference

## **A. Overview**

1. This is an appeal pursuant to s. 20.3 of the *Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372* (the PCAA) related to the seizure of 11 dogs, 3 cats, 7 birds, 8 rats and 8 aquatic species of fish, shrimp and invertebrates (the Animals) from the Appellant, F. M., at his residence located in Surrey, BC (the Property).
2. The Appellant is appealing the August 24, 2023, Review Decision issued under s. 20.2(4)(b) of the PCAA by Shawn Eccles, Senior Director, Animal Protection Services, of the British Columbia Society for the Prevention of Cruelty to Animals (the Society).
3. Section 20.6 of the PCAA permits the British Columbia Farm Industry Review Board (BCFIRB), on hearing an appeal with respect to animals, to require the Society to return the animals to their owner with or without conditions or to permit the Society, in its discretion to destroy, sell or otherwise dispose of the animals. The Appellant in this case is seeking the return of the Animals.
4. On September 26, 2023, a BCFIRB hearing panel (the Panel) held a hearing via Teleconference. The hearing was recorded.
5. The Appellant represented himself and gave evidence on his own behalf. He called no other witnesses.
6. The Society was represented by counsel, and called three witnesses: Special Provincial Constable (SPC) Cassandra Meyers, Special Provincial Constable (SPC) Christie Steele and Doctor of Veterinary Medicine (DVM) Emilia Gordon.

## **B. Decision Summary**

7. This decision relates to the outcome of an investigation conducted by the Society, stemming from a July 21, 2023 complaint from a City of Surrey bylaw officer about the welfare and living conditions of the Animals. SPC Cassandra Meyers subsequently attended at the Property and had several related e-mail interactions with the Appellant over the following days. On July 28, 2023 SPC Meyers obtained and executed a warrant and seized the Animals, having determined that all of the Animals on the Property were in distress.
8. For the reasons set out below, the Panel has decided that none of the Animals can be safely returned to the Appellant and that the Society is permitted, in its discretion to destroy, sell or otherwise dispose of the Animals.

### **C. Preliminary Matters**

9. On September 14, 2023, the Presiding Member in this appeal issued a decision based on an application by the Society under Section 42 of the *Administrative Tribunals Act*, permitting the Society to redact identifying information from all documents produced in this appeal to preserve the confidentiality of complainants and to ensure the Society remained in compliance with a Provincial Court Sealing Order.
10. At the outset of the hearing, the Panel required confirmation on the number of animals on appeal. One dog originally involved in the seizure had become the subject of a Society return agreement with the Appellant's spouse. That dog was no longer among the animals included in the appeal. Additionally, the Panel learned that one of the rats had been determined to be in critical distress and had been euthanized. This brought the number of animals on appeal down to 10 dogs, 3 cats, 7 birds, 7 rats and 8 aquatic species of fish and invertebrates.
11. At the end of the hearing of this appeal the Appellant agreed to surrender certain animals to the Society in lieu of a portion of the costs claimed by the Society such that the animals that are the subject of this appeal are: one male Coonhound dog, one female Coonhound Dog, one male rat terrier dog, one female rat terrier dog, one female cat, and one cockatiel.

### **D. Material Admitted on this Appeal**

12. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-17 which are attached as Appendix A to this decision.

### **E. History Leading to Seizure of the Animals and the Day of Surrender**

13. On October 8, 2022, the Society received a complaint with respect to the conditions in which several animals were being kept inside a house in Delta, BC by the Appellant. The complainant noted that there were at least 10 dogs inside the house that were howling and barking, being kept in cages, living in unsanitary conditions and apparently being left unattended.
14. SPC Christie Steele investigated the complaint and met with a City of Surrey bylaw officer and Delta police officers at the house. After speaking on the telephone with the Appellant, SPC Steele met with the Appellant at the house and observed 10 dogs, one of which had puppies, 3 rats, and 2 budgies. Many of the dogs were caged without food and water and without bedding or enrichment. The walls and floors of the house appeared stained and soiled with urine and feces. Three of the dogs appeared to be in poor body condition and in need of veterinary assessment, and the dogs generally seemed agitated. SPC Steele issued the Appellant a notice

directing that three of the dogs be seen by a veterinarian. SPC Steele advised that he would return for a check-up in 5 days.

15. During the October 8, 2022 visit, the Appellant advised SPC Steele that he owned only one of the dogs in his care. The Appellant claimed that the rest of the dogs were owned by clients and friends and were in his care for training purposes. The Appellant also stated that he was in the process of packing to move to New Brunswick.
16. On October 14, 2022, SPC Steele attended the house in Delta and noted that the Appellant had made significant improvements. The dogs had bedding and water, and the premises was cleaner. The three dogs that had been included in the notice had received the required veterinary treatment. As a result, SPC Steele closed the file.
17. On July 21, 2023, the Society received a new complaint from a City of Surrey bylaw officer about 7 dogs, 4 cats, 3 birds and an unknown number of reptiles at the Property. The complainant noted that the dogs were being kept in "horrible" conditions. They were being contained in crates too small for them and some of the dogs had obvious injuries and needed veterinary care. The complainant advised that the Appellant was in jail, but that the Appellant's spouse was at the Property.
18. SPC Steele attended the Property on July 21, 2003 with three Surrey police officers. The Appellant's spouse, whom SPC Steele recognized from her October 2022 interactions with the Appellant, was unwilling to let SPC Steele view or examine the animals or the Property. The attending Surrey police officers, who had previously been inside the house, advised SPC Steele that dogs were being kept in cat-sized crates that were filthy with cat litter and excrement.
19. On July 22, 2023, SPC Meyers responded to a voice message from the Appellant indicating he was at the Property. The Appellant invited the Society's officers to attend at the Property. SPC Meyers attended at the Property with three Surrey police officers and was allowed entry by the Appellant to look around. The Appellant provided contradictory information about the dogs and noted his intentions to move to New Brunswick. After noting the condition of the house, SPC Meyers issued the Appellant a notice. The notice included the requirement that an injured dog, Lobo, be examined by a veterinarian within 4 days.
20. On July 25, 2023, the Appellant left SPC Meyers 5 voicemail messages wherein he expressed his disagreement with the notice requirement for Lobo to attend with a veterinarian. He also offered contradicting explanations about his crating the Animals, but indicated some willingness to surrender the rats and a fish to the Society. In the messages, the Appellant explained that Lobo was with his spouse and that because of issues with the Ministry of Children and Family Development, the Appellant did not have contact with his spouse.

21. On July 27, 2023, an arranged re-inspection of the Property by SPC Meyers did not occur because SPC Meyers understood that the Appellant had been arrested on July 26, 2023 and had left the Animals without a caretaker.
22. Based on the Appellant's history with the Society and the apparent abandonment of the Animals, SPC Meyers obtained and executed a warrant on the Property on July 28, 2023 and seized the Animals.

#### **F. Review Decision**

23. On August 24, 2023, Mr. Eccles issued the Review Decision in which he outlined his reasons for not returning the Animals to the Appellant. He reviewed the following documents and materials:
  - File #366224 Inspection Follow-up Details (IFD) – July 28, 2023
  - Sealing Order – July 28, 2023
  - Notice of Disposition – July 28, 2023
  - File #351506 IFD – October 14, 2022, the historical files of Society interactions with the Appellant in October 2022.
  - Notice B35526 – October 8, 2022
  - Veterinary Records for the Cats – July 29, 2023
  - Idexx Results for Various Animals – July 31, 2023
  - Current status list of the Animals and various email submissions from the Appellant.
24. Mr. Eccles was satisfied, based on the evidence, that SPC Meyers reasonably formed the opinion that the Animals were in distress, in accordance with the PCAA, and her action to take custody of the Animals to relieve the distress was appropriate. Mr. Eccles further concluded that the Animals should not be returned to the Appellant's care.

#### **G. Key Facts and Evidence**

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

#### Appellant Testimony

27. The Appellant testified as to his history caring for both his own dogs and other people's dogs. He noted that he ended up with extra dogs and he admitted that he

took on too many animals. He testified that he wasn't aware of zoning and breeding laws and didn't know how to ask for help.

28. With respect to the conditions that the dogs were found in on July 21, 2023, the Appellant felt that it was the extra dogs that has caused the issue with fleas. He stated that he was going to surrender the dogs but that he was worried that they were going to be put down. He agreed that the dogs' living conditions were not good around the time of the seizure and stated that a lot of the problems arose "out of their (his) inexperience and as well out of fear".
29. The Appellant explained that involvement of the police had complicated matters. He had intended to rehome the dogs in his care but issues in his personal life had intervened. He admitted that the Animals had fleas and were underweight at the time of the seizure however he wanted to make a deal with the Society so that he could get his original dogs back.
30. The Appellant admitted that he had not provided the Animals with normal veterinary care in part out of ignorance. He explained that he allowed the dogs in his care a lot of freedom and fed them meat instead of kibbled dog food.
31. He stated that he is currently residing in New Brunswick and that, in the meantime, his spouse could take the dogs if they were returned. He initially stated he wanted two coonhounds, two rat terriers and the birds returned to his care. He then reconsidered and stated that he wanted just the four dogs, a cockatiel, and one of the cats. He indicated the dog Lobo, should be returned to his spouse who, as noted above, already had another dog originally involved in the seizure returned to her custody by the Society.
32. The Appellant testified that he is purchasing a property in New Brunswick on a "rent-to-own" basis and has made an amortization plan with the property owner. The Appellant provided no photos of the New Brunswick property.
33. The Appellant admitted that he would like to have puppies New Brunswick but had no intentions of having a kennel. He stated he currently has no established relationship with a veterinarian in New Brunswick. The Appellant explained that he planned to go to the North Delta veterinary clinic before going to New Brunswick and would continue to reside in British Columbia for a while before moving.
34. The Appellant stated he is a mover by trade and has an income of approximately \$3500.00/month when he is working. He noted that he is not currently working and that he has been on a disability pension of 1800.00/month for a long time. He currently pays no monthly rent. In calculating what it would cost to feed four dogs and one cat, he felt it would cost him about \$150.00/month. He stated that he could put up \$800 from his monthly budget to pay for dog food and veterinary care if necessary.

35. In his testimony, the Appellant referred to a number of You-Tube videos that he had submitted as evidence in the appeal. The videos showed some of his dogs and his training them to respond to basic commands. He admitted that these videos were recorded some time ago.

### Respondent Testimony

#### Testimony of SPC Christie Steele

36. SPC Steele stated that she had responded to a complaint on October 8, 2022 from the Delta police department about roughly 12 dogs being kept in cages in unsanitary conditions, reportedly without food and water, at the Appellant's Delta residence. Around that time there had also been a second complaint from a member of the public who expressed concern about the number of dogs and cats at the Appellant's residence.
37. SPC Steele attended at the Delta residence where she met members of the Delta police department, along with a Delta bylaw officer who was speaking with the Appellant on a speakerphone. In that phone call, the Appellant claimed ownership of one of the dogs. The others, the Appellant explained, were at the residence for boarding or for training purposes.
38. SPC Steele was informed by the bylaw officer of 3 complaints the officers had received about the number of animals being kept at the Delta residence. The complaints alleged that some of the animals in the Appellant's care were living in very poor conditions. SPC Steele stated that she returned to the residence later that day and that the Appellant explained to her that the place was messy because they were packing to move to New Brunswick, and asked her if she would wait outside before letting her in. She went into the home after waiting outside for approximately 20 minutes.
39. SPC Steele described the interior of the residence. She noted that it appeared to have been freshly mopped, but that there remained a strong smell of feces and urine. She counted a total of 14 dogs, three rats and two budgies., Five of the dogs were in separate crates in a bedroom. One dog was running loose. She saw that none of the animals had water and described the crates as being without bedding, just wire bottoms. Two dogs were in a wire crate near a back entry area of the bedroom. One dog was sticking its head through a hole chewed through the opening of the crate. In response to her request, the Appellant provided food to the birds and to the dogs. When let out, she said, the dogs were very interested in water. Two of the dogs then fought.
40. SPC Steele stated that she understood from the Appellant that the dogs were being crated overnight and for roughly 5 hours during the daytime. The Appellant maintained that most of the dogs were not his.

41. SPC Steele stated that she discussed spaying and neutering the dogs with the Appellant as it appeared that some of the dogs did not get along. She understood that while the Appellant wasn't intentionally breeding the dogs, he wanted to keep the offspring and felt that spaying and neutering caused cancer. She observed that three of the dogs appeared to be underweight. She issued a notice to the Appellant, giving him five days to address her concerns about the animals' living conditions, confinement, and the amount of filth in and around their chewed crates.
42. SPC Steele testified that when she returned on October 14, 2022, she observed eight dogs, four of which were puppies. The Appellant told her that 3 of the dogs that had previously been at the residence had been relocated to a Boston Bar property but had been returned to the Appellant for Society's inspection and for a visit to a veterinarian. The other dogs had been relocated to his friend's place.
43. With respect to her observations on October 14, 2022, SPC Steele testified that she found only one dog was in a crate and it had bedding and water. She noted that the condition of the property was substantially cleaner and that the three dogs she had identified as needing veterinary care had been seen as directed and seemed to have put on weight. On the basis of the Appellant's compliance effort and his stated intentions to move to New Brunswick by November 15, 2022, she closed the file.
44. SPC Steele testified that her next interaction with the Appellant was on July 21, 2023 after the Society received a complaint from both the City of Surrey Animal Control and the Surrey police. The complaint was again with respect to six or seven large dogs being cramped in cages on the Property. There were also a number of rats and fish living in filthy conditions. The complaint further alleged that there were animals eliminating inside their cages and that one sick dog appeared to be paralyzed and untreated. SPC Steele learned that the Appellant was in jail and that the Animals had been left unattended.
45. SPC Steele testified that when she arrived, she saw several police officers in the driveway of the Property and the Appellant's spouse, whom she recognized from her October 2022 interactions with the Appellant. The only dog that SPC Steele saw that day was Lobo which, the Appellant's spouse explained to her, had sustained a leg injury from a fight with another dog two years ago. The Appellant's spouse explained that Lobo had received surgery but was left with severe mobility issues.
46. It was unclear to SPC Steele which veterinarian treated Lobo and she was not provided with supporting documents to demonstrate that the dog had received care. SPC Steele stated that the Appellant's spouse would not allow her into the house to see the rest of the Animals because they had not yet been tended to. The Appellant's spouse then left the property while SPC Steele was still there, taking Lobo with her. SPC Steele understood that the remaining animals were being left unattended and posted a notice on the door of the Property.



47. SPC Steele stated that the vast majority of the animals at the Property were the same animals as those that she had observed at the Appellant's Delta residence in 2022 and that their living conditions were very similar. She noted that they were being excessively confined and that there was evidence of incompatible pairings and fighting. Some of the dogs had scarring on their muzzles and one had an apparent puncture injury on its torso.

#### Testimony of SPC Cassandra Meyers

48. SPC Meyers testified that she attended the Property on July 22, 2023 in company with City of Surrey bylaw officers and members of the RCMP, having understood that there had been an incident involving the Appellant and the police and that the Animals were going to be abandoned by the end of the day. The Appellant answered the door after SPC Meyers knocked for some time. He explained to her that he had just got home.
49. SPC Meyers testified that the Appellant allowed her into the Property. Her observations were that the linoleum floor was quite sticky and the carpets were extremely soiled and stained and that in a lower level of the house she saw no dogs and no crates but noted the room was dirty and odorous. She stated that the Appellant was evasive with his answers when she questioned him, and that his story fluctuated quite a bit.
50. SPC Meyers was then shown other rooms in the house by the Appellant, including one room containing a cat which appeared trapped. The room smelled very strongly of ammonia, though the litter box in that room appeared clean. In the bathroom, which was empty, SPC Meyers saw holes in the walls that appeared to be from animal chewing.
51. SPC Meyers next looked in a shed attached to the house, which she found empty, but noted it smelled of urine and feces. The Appellant denied confining animals in there, except, he told her, for sometimes at night in the summer months. After looking at a third, tarp-covered shed at the back of the Property, which the Appellant did not permit her to examine, SPC Meyers returned to the house where upstairs she saw two Doberman dogs in a 4'x4' crate containing empty food and water containers, which the Appellant then filled.
52. SPC Meyers then saw a number of aquariums in the dining room, one of which contained a tilapia fish, another of which contained goldfish, and another of which contained snails. She testified that all of the aquariums seemed dirty and that their filters didn't seem to be working. Further into the living room she saw two stacked 4'x2' cages containing three adult rats, and eight newborn rats. The cages smelled strongly of feces. The mother rat appeared dirty, itchy, and was missing hair, potentially as a result of mites.

53. SPC Meyers testified that in an upper floor bedroom she saw a cage containing cockatiels and a cage containing budgie birds. There were also Zebra finches that were free roaming in the room.
54. SPC Meyers then went outside, and in the company of another Society representative, SPC Blackwell, and two police officers, discussed her concerns with the Appellant. She stated he fluctuated with his answers and gave inconsistent statements regarding the state of the Property, the location of the dogs previously in his care and his plans for relocating to New Brunswick. SPC Meyers then issued the Appellant a further notice.
55. SPC Meyers testified that on July 25, 2023, she received five voicemail messages from the Appellant, each of which exceeded five minutes in length. In the messages, the Appellant stated he had cleaned up the residence and that everything was fine. He denied the allegations of confinement, and he said that the Society had no business governing his care of the Animals. He disagreed with SPC Meyers' recommendations, and was generally accusatory in his manner.
56. SPC Meyers testified that following this series of messages, and after receiving further information from an additional complainant that there were more animals on the Property than SPC Meyers had seen when she visited the Property on July 22, 2023, she applied for a warrant, which she executed on July 28, 2023 in the company of SPC Steele and Surrey police officers.
57. SPC Meyers testified that at the time that she executed the warrant the Appellant was seen fleeing from the Property, but then returned after about 10 minutes. After some discussion with him, the Appellant left after being given a copy of the warrant.
58. SPC Meyers described her search of the Property. There were four dogs in the backyard. A lower-level window-lit bathroom contained two dogs, a Coonhound and a Doberman. The bathroom smelled of urine and feces. The toilet was the only access to water for the dogs and the room was without bedding or enrichment. Another dog, a Doberman, was contained upstairs in a pen containing no water. This dog was aggravated by SPC Meyers' presence and acted fearfully. It eagerly drank water when it was offered.
59. SPC Meyers saw that some adjustments had been made to the aquariums, but that their filters were still not working, nor had the water been changed. All of the snails were dead.
60. The rat cages had been removed and, from her understanding, one of the rats had died. In the bird room, the cages had been removed. The cockatiels and budgies in the room were free roaming. Their water bowl on the floor was dirty and had bird feces in it.

61. In a bedroom containing four beds, she found a crate under one bed containing a rat terrier dog and a towel, but no water, enrichment or bedding. The dog seemed frightened and, upon examination, exhibited scars on its head and legs. Then going outside, SPC Meyers observed a pit bull female dog that had initially escaped but, when caught, appeared underweight and had enlarged mummeries. In the backyard, SPC Meyers found the remaining three dogs, which included a Rat Terrier and a dog described as a Patterdale Terrier. Also in the yard was a female Coonhound, which had an untreated wound on its torso. SPC Meyers noted there was a fair buildup of feces in the backyard area.
62. SPC Meyers then described searching the shed where she found 3 dogs, two Border Collies and another Rat Terrier, despite the Appellant's claims that he did not use the shed to house animals. There was no water, light or proper ventilation in the space and it smelled of feces and urine. The dogs were friendly.
63. In a separate, tarp-covered shed, SPC Meyers found no dogs but found a number of crates and two electric fans that were running. She stated it was hot inside the shed and it smelled of ammonia. Based on the information she had been given by a complainant and what she observed first-hand, she considered it likely that animals had been housed in it previously.
64. SPC Meyers testified that as a result of her observations at the Property, she decided to seize all of the Animals.
65. SPC Meyers testified that the Appellant's spouse explained to her that the dog, Lobo was in her care and with the assistance of the Humane Society was being provided with the necessary veterinary care such that Lobo was not included with the Animals that were seized from the Property.

#### Testimony of Dr. Emilia Gordon, DVM

66. Dr. Gordon testified as to her qualifications as a Doctor of Veterinary Medicine and in particular as to her special certification in shelter medicine and infectious diseases. The Panel accepted Dr. Gordon as an expert witness for the hearing.
67. Dr. Gordon testified that she did not attend the Property and had based her findings as submitted in her written report to the Society on her review of the Society's disclosure package, the fecal diagnostic findings and patterns in the animal group, the Animals' veterinary records, and her personal examination of 11 of the Animals.
68. Dr. Gordon testified with respect to the number of infections and parasites in the Animals, specifically the mites, giardia, roundworm and tapeworm and what the implications of her findings were for the environment in which the Animals were kept. Dr. Gordon testified that, based on the lifecycle and biology of the parasites, they were currently present on the Property and had been present there for weeks

to months. Dr. Gordon further stated that parasites such as roundworms can live in the environment for quite a long time and are consistent with an unsanitary environment and a lack of preventative care provided to animals. Dr. Gordon testified that these are not one day issues, and that it was not possible for animals to become infected and show clinical signs in one day.

69. Dr. Gordon testified that all of the infections identified in the Animals were preventable through ongoing preventative care, the use of flea powder, grooming, diet, the maintenance of a clean environment, the removal of feces, the use of parasitic drugs, and by allowing the Animals enough space so that they are not cramped in their own feces.
70. Dr. Gordon stated that she monitored the Animals for approximately five weeks after their intake and that all of the Animals had improved. They were showing no signs of carrying parasites after five weeks.
71. Dr. Gordon stated that the infections would have been obvious to any animal owner through the Animal's hair loss, itchiness, scabbing, fleas moving in animals' coats, and sometimes through bites on people. Dr. Gordon further observed that one of the dogs, which had Giardia, had diarrhea which is also indicative of infection.
72. Dr. Gordon testified that what was concerning to her in this case was a pattern of behaviour on the part of the owner which indicated not just of a lack of care but a lack of recognition of its need. The external parasites causing itchiness, the parasites visibly crawling through the Animals' coats, the ear discharge and buildup of overgrown nails, the matting and the scars on some of the dogs were more than one would see in a typical household. The management of the Animals did not support of their good health.
73. Dr. Gordon testified that she was concerned that there were capacity issues and a demonstrated lack of preventative care for the Animals. She stated that in cases where basic care (environmental, nutritional, medical) is not provided what tends to occur is that those patterns predict future behavior. As such she did not consider that a return of the Animals to the Appellant's care would be in their best interest.

## **H. Analysis and Decision**

74. 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.

75. The definition of "distress" provides:

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

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

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

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

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

(c) abused or neglected.

76. The Panel has also proceeded on the basis that the Appellant has an onus to show, that the remedy they seek (return of the Animals) is justified. The first issue to consider is whether the Animals were in distress. Depending on the answer to that question, the next issue is to decide whether to return the Animals or whether doing so would return the Animals to a situation of distress.

#### Were the Animals in distress?

77. The written report prepared by Dr. Gordon which was submitted the Society and entered as an exhibit in this appeal, summarizes Dr. Gordon's findings. The report states in part:

Infectious Disease: All three animal species had preventable/treatable external parasites; the rats had fur mites (suspected), and the dogs and cats had live fleas (confirmed). The cats and dogs were also found to have preventable/treatable internal parasites on population-level sampling of a subset of the population, with 4/8 fecals from these species showing positive results (dogs: Giardia, roundworm; cats: tapeworm).

All of the rats (8/8), as well as 1/3 cats and 3/11 dogs examined were underweight or emaciated.

Only one animal (cat) was pregnant, and only one animal (rat with a severe facial swelling who had to be euthanized for critical distress) had an illness sufficient to explain loss of appetite, so inadequate provision of calories is considered the most likely differential diagnosis. The bottom line: over half of these animals were not

consuming adequate calories to maintain a healthy body condition.

Among the dogs, 5/11 had scars consistent with past traumatic injury with two of these also having healing wounds consistent with more recent injury; at least some of the scars were consistent with dog bites while others were more consistent with other traumatic injuries...

A number of animals also displayed signs associated with unsanitary living conditions/ lack of ongoing preventive grooming care, including long/overgrown nails (4 dogs), ear discharge/buildup (1 cat, 4 dogs), and urine soiling (2 rats).

The animals in this population had examination findings consistent with unsanitary conditions in the originating environment (based on the high parasite prevalence and ear/skin/nail findings), food deprivation (based on over half the animals being underweight or emaciated), and deprivation of adequate care and veterinary treatment (based on the presence of preventable/treatable parasites and other individual medical conditions). The conditions reflected by these findings are largely preventable, and information in the file suggests that the animal owner was previously aware of the fur mite concerns. Some of the findings can also be associated with inadequate space and exercise,

It is also possible to conclude with a high level of certainty from these findings alone that the number of animals exceeded caregiver capacity for humane care. This is considered a root issue relating to lack of perspective about true capacity/care needs and lack of resources to meet these needs. Based on the published literature around animal hoarding, this root issue is highly likely to lead to future animal suffering and distress for future (or returned) animals on this property.

78. It is clear that the Animals, when seized on July 28, 2023, and in the days preceding the seizure by SPC Meyers, were in distress. The testimonies of SPC Steele and SPC Meyers, and the testimony and reports of Dr. Gordon, are compelling that at the time of the inspections of the Property in late July 2023, and upon veterinary inspection, the Animals were in distress from being contained and confined in unsanitary conditions that did not provide adequate water, food, ventilation, exercise, or freedom from filth, parasites or disease. While there was movement of animals between crates and cages and rooms and sheds, all of the Animals had evidence of being in distress.
79. In fact, the Appellant did not seriously contest Dr. Gordon's medical findings or the evidence provided by the Society with respect to the conditions in which the Animals were being kept which were clearly far below the basic requirements for animal care. The Animals were suffering from nearly all the conditions covered in the definition of distress in the PCAA. They were found deprived of adequate food, water, space, exercise, care and at least with some, veterinary treatment. They were all being kept in unsanitary conditions. Some were carrying injuries and were

apparently in pain. All seem to have been neglected. The Panel has no difficulty in finding that the Animals were in distress at the time of the seizure.

### Return of the Animals

80. The Appellant's history with the Society shows that he has made some efforts at compliance after receiving notices with directions from both SPC Steele and SPC Meyers. After his first interaction with the Society, the Appellant made sufficient improvements to the living conditions and veterinary care for the animals in his care that the Society closed their investigation.
81. Unfortunately, the Panel was provided with no compelling evidence to suggest that a return of any of the Animals to the Appellant is warranted in this instance. The Panel agrees, as seemingly did the Appellant, with Dr. Gordon's evidence including in particular her evidence regarding the pattern of insufficient care demonstrated by the Appellant to the Animals. The Appellant's repeated failure to attend to some of the most basic aspects of animal care suggest that he is not capable of breaking the pattern of neglect that has characterized his treatment of the animals in his care. The Panel finds that returning any of the Animals to the Appellant would invariably result in them falling back into conditions of distress.
82. Dr. Gordon's evidence included her observation that the Animals had all improved since being removed from the Appellant's care and the Panel has no difficulty in finding that the Animals should remain in the Society's care to be dealt with at their discretion in accordance with the PCAA.

### **I. Costs**

83. 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.
84. 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)".

85. As outlined in its submission, the Society sought costs as follows:

(a) Veterinary costs:	\$3,058.00
(b) Society time attending to seizure:	\$712.14
(c) Housing, feeding and caring for the Animals:	\$15,695.95
(d) Total:	\$19,466.09

86. On the matter of costs, the Society's submissions provide detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care of the Animals.

87. The Appellant agreed during closing submissions to release some of the Animals to the Society's care before the Panel's decision is released. In consideration of this agreement, the Society agreed to reduce its costs claim to \$17,645.09.

**J. Order**

88. In accordance with S. 20.6 of the PCAA, the Society is permitted, in its discretion to destroy, sell or otherwise dispose of the Animals..

89. With respect to costs as outlined above, the Appellant is liable to the Society for costs in the total amount of \$17,645.09.

Dated at Victoria, British Columbia this 11 day of October 2023.

**BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

**Per:**



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Dennis Lapierre, Presiding Member



## Appendix “A”

Exhibit #	Date (Received)	Received from	Document
Exhibit #1	August 24, 2023	BCSPCA	M & M Decision Letter – August 24, 2023
Exhibit #2	August 28, 2023	Appellant	F. M. NOA
Exhibit #3	August 29, 2023	BCFIRB	2023 August 29 – F. M. v BCSPCA P2311 – NOA Process letter
Exhibit #4	September 7, 2023	BCSPCA	BC SPCA Document Disclosure Tabs 1–69 – REDACTED
Exhibit #5	September 7, 2023	BCSPCA	366224 VM Message 1 of 2 from F. M. 07-22-2023
Exhibit #6	September 7, 2023	BCSPCA	366224 VM Message 2 of 2 from F. M. 07-22-2023
Exhibit #7	September 18, 2023	BCFIRB	Email to Appellant from BCFIRB (No Submissions Received)
Exhibit #8	September 18, 2023	BCFIRB	Ex Parte Application Decision
Exhibit #9	September 19, 2023	Appellant	Appellant Email with Written Submissions and 21 YouTube Links
Exhibit #10	September 19, 2023	Appellant	Appellant Residence Statement
Exhibit #11	September 19, 2023	Appellant	Appellant Email discussing specific Animals
Exhibit #12	September 19, 2023	BCSPCA	BCSPCA Document Disclosure Additional Invoices_Redacted pgs 705-707
Exhibit #13	September 19, 2023	BCSPCA	BCSPCA File 366224 Surrey seizure cats dogs rats - Redacted
Exhibit #14	September 19, 2023	BCSPCA	Affidavit #1 of Shawn Eccles

<b>Exhibit #</b>	<b>Date (Received)</b>	<b>Received from</b>	<b>Document</b>
Exhibit #15	September 19, 2023	BCSPCA	BCSPCA Submissions - F. M.
Exhibit #16	September 19, 2023	BCSPCA	BCSPCA Witness List
Exhibit #17	September 22, 2023	Appellant	Appellant Witness List