

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 NINE DOGS

BETWEEN

CHRISTOPHER PRATT AND KEVIN RAUCH

APPELLANTS

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

Stephanie Briscoe, Representative

For the Respondent

Rylee Hunter, Counsel

Date of Hearing

February 18, 2022

Location of Hearing

Video Conference

I. INTRODUCTION

1. On December 30, 2021, the BC Society for the Prevention of Cruelty to Animals (“the Society”) seized nine dogs (the “Animals”) under Section 2 (1) of the Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372 (the *PCAA*) from a property owned by the Appellants’ representative (“Ms. Briscoe”) in Clearwater, BC (the “Property”).
2. On January 4, 2022, the Appellants, through Ms. Briscoe, requested that the Society return the Animals.
3. On January 17, 2022 the Appellants’ 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 January 21, 2022 (with filing fees received January 24th), Ms. Briscoe filed an appeal on behalf of the Appellants of 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 February 18, 2022.
6. The Hearing convened by video conference at 8:30 a.m. on Friday February 18, 2022 and concluded at 3:30 that afternoon. The Appellants were represented by Ms. Briscoe who also testified, and called four witnesses, one of whom did not testify. The Respondent was represented by counsel, who called four witnesses, one of whom was accepted by the Panel as an Expert Witness.

II. PRELIMINARY MATTERS

7. Ms. Briscoe was named along with the Appellants in the Review Decision because individual ownership of the Animals was not known at the time of seizure.
8. On February 14, 2022 counsel for the Respondent sent Ms. Briscoe an email requesting that she identify each of the Animals by name and owner. That evening, Ms. Briscoe sent an email to the Respondent, copied to BCFIRB, providing the name and ownership of each of the Animals. Ms. Briscoe also left a voice message with BCFIRB staff that included a statement that, “...None of these dogs are mine, that’s the whole thing about it. I don’t know what to do...”
9. Ms. Briscoe sent a second email on February 14, 2022 to the Respondent, copied to BCFIRB, stating that she:

“...would like it to be known that I have no claim to these dogs. Kevin Rauch is the sole owner of the dogs and Chris Pratt is the partner of Kevin. They asked me if they could put their dogs on my property a year and a half ago, to which I complied and have not had a problem with it, up until now. There was no agreement to look after nor any responsibility on my part to take care of the animals.”

Due to the recent incidents that have happened, namely Kevin Rauch being involved in a head-on collision and Chris Pratt having major health problems, I have undertaken the task of this SPCA trial as a favour to them, as friends, plus their limited knowledge in legal matters. Just because I have had dealings 15 years ago with the SPCA, does not mean I have anything to do with this particular case, except for representation for my friends.(which might not have been my wisest choice). However, I couldn't just be a spectator here and not help their situation. I, own and care for 1 dog "Charlie" and co-own 1 dog "Songbird" with Kevin Rauch. These dogs were in Chris Pratts home and were not taken during the seizure.

10. On February 16, 2022 counsel for the Society responded by email with respect to Ms. Briscoe's role in the proceedings as follows:
 1. Under the *Prevention of Cruelty to Animals Act*, [RSBC 1996] C 372, (the "Act") s. 1(1), the definition of a "person responsible" includes a person who (a) owns an animal or (c) has custody or control of an animal. Ms. Briscoe had custody and control of the dogs, as they have been living on her property for over a year.
 2. In the alternative, Ms. Briscoe claims to have brought this appeal on behalf of Mr. Pratt and Mr. Rauch. If Mr. Pratt and Mr. Rauch have agreed to her representation of them, then she is their authorized representative.
 3. In the further alternative, if Ms. Briscoe does not have custody of the Dogs under the Act, and Mr. Rauch and Mr. Pratt do not agree to have her represent them and she is thus not their authorized representative, then no appeal has been made within the 14-day deadline.
11. The Society further noted that since Ms. Briscoe made some comments at the time of seizure that made the ownership of the dogs unclear, they would like to cross examine her on "on her ownership, role in caring for the dogs, and their living condition." The Society further advised that Ms. Briscoe had said both Mr. Pratt and Mr. Rauch would be attending the hearing to testify on their behalf, and consequently the Society "intends to cross examine them as well."
12. Ms. Briscoe confirmed the statements in her emails at the commencement of the hearing when the Panel enquired as to her understanding of her role in the proceeding. The Society resubmitted that given the history of the matter to the date of the hearing, they would still expect to be able to cross examine Ms. Briscoe with respect to her role in terms of the care provided to the Animals.
13. As further described below, the Appellants agreed with Ms. Briscoe that her role in these proceedings was as their authorized representative (as described by the Society at paragraph 10(2) above) and not as an owner or custodian of the Animals.

14. Based on the evidence regarding the ownership and custody of the Animals as described below, the Panel has accepted that Ms. Briscoe's role in these proceedings is as the representative of the Appellants, and not as an Appellant in her own right, and this Decision reflects that finding. However, Ms. Briscoe also gave oral evidence at the hearing and was the subject of cross examination on that evidence.
15. On agreement of the Parties, Ms. Briscoe's email of February 14, 2022 providing the names and ownership of each of the nine dogs was entered into evidence as Exhibit 24, as is reproduced here as follows:

SPCA ID	DOG NAME	DOG OWNER
A1	Danny	K. Rauch
A2	Willie	K. Rauch
A3	Penny	K. Rauch
A4	Guapo	C. Pratt
B1	Truck	K. Rauch
B2	Trinket	K. Rauch
B3	Apple	K. Rauch
B4	Roper	K. Rauch
B5	Moon	K. Rauch

III. MATERIAL ADMITTED IN THIS APPEAL

16. 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 and were provided to both the Panel and Ms. Briscoe in electronic form. Ms. Briscoe acknowledged having received the documents in electronic form and raised no objections to proceeding with the hearing of the appeal on that basis.

IV. 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 Appellants?

EVIDENCE AND FACTS

V. BACKGROUND

18. Ms. Briscoe has resided at the Property for fourteen years. There are two mobile homes, an outbuilding, a shop, and a kennel on the Property.
19. On the day of the seizure, there were 12 dogs living on the Property. Three dogs were housed inside one of the mobile homes. The nine dogs that are the subject of this appeal were tethered outside by a length of chain to each of nine dog houses which surrounded the residence. During the month of December 2021, the region was experiencing extreme cold temperatures.
20. On December 14, 2021, Ms. Briscoe came to the attention of the Society when a complaint was filed concerning two dogs who were “skinny and cold” tethered outside close to the road on the Property.
 - a. The two dogs in question were owned by Mr. Chris Gower, who gave evidence that he had asked Ms. Briscoe in early December if he could leave the dogs with her for a period due to personal circumstances and Ms. Briscoe agreed that he could drop them off.
 - b. After several weeks, Ms. Briscoe advised Mr. Gower that the dogs – both formerly “inside dogs” – were not faring well outside in the December cold and asked him to come and get them. Both animals were removed by Mr. Gower in the days following Christmas.
 - c. The December 14, 2021 complaint did not result in a visit from the Society.
21. On December 23, 2021, a second complaint was received by the Society which was directly related to the Animals that are the subject of this appeal.
 - a. The BC Ambulance Service was called to the Property in the early hours of December 22, 2021, to attend to the medical needs of Mr. Christopher Pratt, who resided at the Property and who’d had an apparent heart attack.
 - b. One of the BCAS paramedics, Jody Ebert, observed dogs tethered outside to small dog houses in minus 20 degrees Celsius temperatures. One dog had ribs showing and appeared emaciated. Ms. Ebert called in a complaint to the Society the following day, noting Mr. Christopher Pratt as the likely owner.
22. On December 29, 2022, Special Provincial Constable (SPC) Leah Dodd and SPC Dan Chapman visited the Property to investigate the complaints.
 - a. At the time of their visit (almost 4 pm), the outside temperature at the Property was minus 17 degrees Celsius with a wind chill of minus 30 degrees Celsius.
 - b. The Constables observed “three outbuildings and one mobile home” on the property. [One of the outbuildings was later described as the unoccupied mobile home residence of Mr. Kevin Rauch.]

- c. Nine pit bull dogs were outside, tethered to chains attached to individual dog houses surrounding the main residence/mobile home on the Property.
 - d. The dogs appeared cold, were shivering and paw lifting, and had no access to food or water. Some of the dogs were licking frozen water in their metal bowls.
 - e. Ms. Briscoe answered the door but was evasive, refusing to provide more than her first name. When asked who owned the dogs, she said only that “some of the dogs” were hers.
 - f. SPC Dodd told Ms. Briscoe that she was concerned that the dogs were in distress and wanted to discuss it with her. Ms. Briscoe refused and asked the Constables to leave the property. SPC Dodd asked if she could sit in her vehicle for a moment to fill out a Society Notice to remedy the distress, but Ms. Briscoe again asked her to leave. SPC Dodd complied, advising Ms. Briscoe that she would tape the Notice to the front gate.
 - g. SPC Dodd moved her vehicle outside the gate and issued a written notice to “Stephanie Unknown” and Christopher Pratt that stipulated all nine dogs tethered outside were to be given access to potable water and food within one hour, and shelter to ensure protection from the cold within four hours, and that Ms. Briscoe and Mr. Pratt were to phone SPC Dodd by the end of that day to confirm all conditions had been satisfied. The Notice, taped to the front gate, stated “...failure to address the above-noted issues within 4 hours may result in legal action including application for a search warrant, removal of your animal(s) and/or charges pursuant to the Criminal Code and the PCAA.”
23. SPC Dodd then phoned Dr. Anne Flemming, DVM, Central Care Animal Hospital in Kamloops BC and described the conditions she witnessed during her visit to the Property. Dr. Flemming confirmed that it was too cold for a pit bull to be outside in the described conditions because, as lesser-coated dogs, their body hair was insufficient to provide adequate insulation. “I would say the animals are in distress” she told SPC Dodd. SPC Dodd then contacted Clearwater RCMP to determine the names of the persons who lived on the Property. SPC Dodd was told the person on file for that address was Stephanie Briscoe and that Christopher Pratt also lived on the Property.
24. At 9 pm that evening, not having received any further communication from Ms. Briscoe nor Mr. Pratt, SPC Dodd applied for and received a warrant to gain legal access to the Property the next day to inspect the Animals for potential distress as a result of “...being kept in conditions that are not protected from excessive cold, inadequate shelter, inadequate access to clean potable drinking water, and inadequate access to food...”.
25. On the morning of December 30, 2021, SPCs Dodd, Chapman and Kokoska executed the warrant with the support of RCMP Constable Jay Meyer. The temperature was minus 19 degrees Celsius, with a wind of minus 30 Celsius.

26. A man who identified himself as Kevin Rauch was present. Mr. Rauch said that he owned five of the dogs and that he lived in the “other trailer” on the Property. RCMP Constable Meyer arrested Mr. Rauch for multiple warrants and took him into custody.
27. SPC Dodd asked Ms. Briscoe how many dogs were on the Property and Ms. Briscoe replied that there were 11 [subsequent evidence confirms there were 12; nine outside and 3 inside]. SPC Dodd asked how many of the dogs belonged to Ms. Briscoe and she replied that there were three dogs inside the residence, two of which were hers.
28. SPC Dodd asked to speak with Christopher Pratt, who came to the door of the residence. Mr. Pratt stated that he owned two dogs, Roxy, who was inside the residence, and one of the dogs that was tethered outside.
29. There were nine pit-bull type dogs tethered outside, each attached by a length of metal chain to a doghouse that was stuffed with straw. Mr. Pratt and Ms. Briscoe walked the Property with SPC Dodd and SPC Chapman. The ground was covered with snow. Some dogs had stainless-steel bowls of frozen water. All were shivering, most were paw lifting, and some were attempting to drink water from the frozen bowls. No food was present.
30. SPC Chapman asked Ms. Briscoe “do you think it is appropriate for your dogs to be outside in this weather?” and Ms. Briscoe replied, “during the day, yes.” SPC Chapman asked what temperature would not be okay for them to be outside, and Ms. Briscoe replied, “when it is not okay for me – so minus 27.” According to the evidence of SPC Chapman, it was minus 30 at the time.
31. SPC Dodd and SPC Chapman approached two of the friendlier dogs and used a temperature gun to take the temperature inside the dog houses. The readings were minus 19 and minus 21 degrees Celsius.
32. Within an hour of their arrival, SPC Dodd determined that the nine dogs tethered on chains to doghouses surrounding the residence were in distress due to inadequate shelter and inadequate water, and that they should be seized under the Act. Ms. Briscoe became abusive, accusing the Society of killing all pit bulls. SPC Dodd explained this was not the policy of the Society.
33. Mr. Pratt and Ms. Briscoe assisted the Constables in loading some of the more difficult dogs. Most of the clasps on the chains were frozen to the dogs’ collars, requiring the removal of the collars before the Animals could be placed in the Society’s crates.
34. After loading the Animals, SPC Dodd and SPC Chapman attempted to take the temperature in the rest of the dog houses, but the battery in the temperature gun had died due to the cold weather. The pens that SPC Dodd and SPC Chapman

were using to take notes also kept freezing and had to be swapped out and warmed up multiple times. SPC Dodd noted that her fingers and toes were “painfully cold”.

35. Before leaving the Property, SPC Dodd spoke with Mr. Rauch in the back of the police cruiser to ask if he was interested in surrendering any of the dogs. Mr. Rauch refused, and according to SPC Dodd “was continuously changing his story” as to which dogs he owned. SPC Dodd testified that Mr. Rauch then told her she was “pissing him off” and refused to speak further with her. The conversation ended.
36. Ms. Briscoe and Mr. Pratt agreed to bring the three dogs that were inside the home outside to allow SPCs Kokoska and Chapman to assess them. Two (Ladybird and Roxy) were determined to require veterinary visits, the former for a dental exam and the latter for a large mass on her abdomen.
37. SPC Dodd provided individual 14-day Notices of Dispute (NODs) to Mr. Rauch, Mr. Pratt and Ms. Briscoe, listing all nine dogs on each because ownership of the individual dogs was unclear and would have to be sorted out during the dispute process. SPC Dodd also issued a notice to Mr. Pratt and Ms. Briscoe for required veterinary exams within 10 days for Ladybird and Roxy. Mr. Pratt excused himself to lie down, saying “give it to Stephanie.” Ms. Briscoe was given the option of surrendering all nine dogs, which she refused. It was explained to her that they would be responsible for costs from the date of seizure forward if the Animals were not surrendered.
38. When SPC Dodd told Ms. Briscoe that all nine dogs would be receiving veterinary care, Briscoe replied “please don’t – I can’t afford it”. The offer to surrender was again made by SPC Dodd, and again declined by Ms. Briscoe.
39. The Animals were transported directly to the Aberdeen Veterinary Hospital, Kamloops BC where they were examined by Dr. Rebecca Campbell, DVM. Dr. Campbell’s notes include the following observations:
 - I was presented nine pitbull dogs to examine immediately after being taken from a property in Clearwater, BC on Dec 30, 2021.
 - They were brought to me by two SPCA animal protection officers who explained to me that they were seized from this Clearwater property due to being chained outside in temperatures as cold as minus -30 C without access to water (it was frozen) or a heat source.
 - All dogs were bright and alert at presentation.
 - All were at least 10% dehydrated (having a prolonged skin tent) with one of the dogs showing signs of > 10% dehydration (it had a permanent skin tent).
 - Their overall body condition scores (BCS) were adequate with all

being thin but not underweight except one (patient A3) who was graded as having a 3 out of 9 BCS with 4 or 5 out of 9 being considered an ideal body weight.

- Two of the dogs had small frost bite lesions on the tips of their ears (patient A4 and A1).
- All of these dogs had mild skin infections between the digits of their paws (expect B2) as well as skin abrasions and hair loss under the collars around their necks.
- Some had fractured teeth and 2 of the dogs showed healed scars from old wounds on their head and face.
- Patient B3 was the only one that I prescribed antibiotics for due to a severe pyoderma (bacterial skin infection) affecting a large amount of his body.
- This breed of dog does not have a hair coat appropriate for outdoor living where temperatures dip below freezing level. I believe the SPCA acted appropriately in seizing these nine dogs due to their living environment and lack of water source.

40. On January 4, 2022, Ms. Briscoe sent the Society's Chief Prevention and Enforcement Officer Marcie Moriarty a letter – signed also by Mr. Pratt and Mr. Rauch – requesting return of the animals. In this letter, Ms. Briscoe asks the Society why the officers could not have helped them bring the dogs inside rather than seize them and further notes that the requested veterinary appointments had been made for Roxy and Ladybird.

41. In her Review Decision, Ms. Moriarty upheld the legality of the seizure and further held that it was in the best interests of the Animals to remain in protective custody with the Society and not be returned to the Appellants. In reaching her Decision, Ms. Moriarty noted that she relied on the below documents (also provided to Briscoe et al), on the findings of Dr. Rebecca Campbell (Section V paragraph 39), and on Ms. Briscoe's previous history with the Society (2006).

- Report to Justice
- Signed Warrant
- Inspection Follow-up Notes (IFN)
- Property Map
- Physical Examination Intake Forms
- Veterinary records & Veterinarian letter
- Historical decision
- Video footage
- Various photographs and
- Various email submissions from yourself and sent on your behalf.

42. On January 21, 2022, Ms. Briscoe filed an appeal of the Review Decision with BCFIRB as the representative of the Appellant owners.

VI. APPELLANTS' EVIDENCE

43. Ms. Briscoe represented the Appellants and stated that she would call the following four witnesses in addition to giving evidence herself:
- a. Mr. Ted Yates
 - b. Mr. Chris Gower
 - c. Mr. Chris Pratt
 - d. Mr. Kevin Rauch
44. After being sworn in, Ms. Briscoe testified to the following:
- a. The Animals were not in distress on the day of the seizure until the arrival of the Society. If not for the Society visit, they would have been in their kennels. They were outside of their kennels on their chains, experiencing symptoms of the cold, because of the visitors on the Property.
 - b. The dog houses are insulated and have heaters in the floors. The snaps at the end of the chains were not frozen, they were taped shut to prevent the Animals from becoming detached from the chains. Mr. Pratt would have filled their bowls with fresh water that morning. The reason there was no food present was because they do not leave food outside due to rodents. With respect to the temperature, it was not as cold as the Society claims; wind chill is not a "real temperature".
 - c. The Animals are not aggressive.
 - d. Ms. Briscoe has at times helped Mr. Pratt and Mr. Rauch with the dogs, but when she agreed that they could move their dogs to her Property, she made it clear that she was not there as "their kennel person – I have 2 dogs of my own in the house and that is all I want to have."
 - e. Ms. Briscoe lives in the renovated mobile home and Mr. Pratt lives in the other smaller trailer where there is room for crates for the Animals.
 - f. Ms. Briscoe and Mr. Pratt were about to start a plan for the dogs, but Mr. Rauch needed to be consulted. The plan was to put some of the dogs in the kennel and another 5 dogs in the smaller trailer that belongs to Mr. Pratt.
 - g. Mr. Pratt has had several heart attacks - most recently December 22, 2021 - and his health is poor. Since Mr. Rauch's head on collision in the fall 2021, Mr. Pratt has been looking after the care and training of Mr. Rauch's dogs.
 - h. With respect to the condition of the Animals observed by the Society:
 - a. The wounds and scarring noted on some of the dogs are the results of rough play (they lose "chips and chunks").
 - b. The red paws noted by the veterinarian are the result of an allergy to the non-organic straw Ms. Briscoe was forced to use when the 100 bales of organic hay she had ordered in October were stolen from her supplier. "This is why their feet are red."

45. Ms. Hunter, Counsel for the Society, then cross-examined Ms. Briscoe. Ms. Hunter's opening questions related to Ms. Briscoe's role in the care of the Animals and whether she was a custodial owner (a "person responsible" under Section 1 (1) of the Act). See Preliminary Matters (Section II). The following additional evidence was provided by Ms. Briscoe:
- a. At the time of the seizure Mr. Rauch, owner of 8 of the Animals, was living in Kamloops. He had been off the Property for 3 months recovering from a traumatic brain injury following a head- on collision. Part of this time (several months) was spent in the hospital; upon release he moved in with his mother in Kamloops to access medical specialists.
 - b. During his absence Mr. Pratt, who lived on the Property, had primary responsibility for the care of the Animals and looked after the Animals.
 - c. When Mr. Pratt had heart attack on December 22, 2021, his health deteriorated. Ms. Briscoe helped him care for the dogs in Mr. Rauch's absence because Mr. Pratt needed her help.
 - d. Ms. Briscoe had picked Mr. Rauch up on the day of the seizure to help them put the dogs inside. Mr. Pratt's mobile home was set up to accommodate some of the dogs, but she testified that they needed Mr. Rauch to make the decision which dogs could be kenneled in proximity to one another. When asked by Ms. Hunter why this information could not have been obtained via a phone call, Ms. Briscoe said that "Kevin wanted to do it".
 - e. When asked by Ms. Hunter whether 12 dogs would fit in Mr. Pratt's home at night, Ms. Briscoe said yes, the nine dogs that had been tethered outside plus Mr. Pratt's dog (Roxy, not seized) could be accommodated in Mr. Pratt's home and in the kennel. She went on to explain that Mr. Pratt had room for 5 dogs in crates and had 4 welded crates in his living room. Ms. Briscoe's two dogs (Charlie and Songbird; not seized) lived with her in her home.
 - f. When asked if the building referred to as a kennel was able to accommodate some dogs, Ms. Briscoe replied no, it was in the process of being completed and they were "waiting for Kevin" to finish the work. She also noted that the kennel relied on a wood stove for heat, and someone would need to be responsible for keeping the wood stove burning in the cold weather. That would be Mr. Rauch's job.
 - g. When asked by Ms. Hunter whether she was aware that two of the Animals had frostbite on their ears, Ms. Briscoe said she was not.
 - h. When asked about the other findings of the veterinarian, Ms. Briscoe questioned that the Animals were 10% dehydrated, arguing that according to her research they would have been close to death were that the case. She said the collar rubbing was a result of play, and that the red paws noted in all the Animals was likely due to the use of non-organic straw bedding.
 - i. When questioned about the temperatures observed by the Society in two of the dog houses on the day of seizure (-21 and -19), Ms. Briscoe said she felt the temperature sensing devices were not working properly. Ms. Briscoe noted

Mr. Pratt has a temperature checker, but she was not sure when it was last used (“...you need to ask Chris and Kevin about that”).

- j. Ms. Hunter asked about the frozen water bowls. Ms. Briscoe replied they get “changed out” with each watering. When asked how often that occurs, Ms. Briscoe replied “I don’t know - you would have to check with Kevin and Chris.”
- k. When asked how often she got out to look at whether the water bowls were empty of frozen, Ms. Briscoe replied “that is Chris’ job, not mine. If I noticed, I would do something, but I am busy doing renos” [to her home].
- l. When asked by Ms. Hunter if she felt the Animals were comfortable, Ms. Briscoe said “yes, but Chris checks their houses - it is not my job.”
- m. When asked who walked the Animals and helped with their training, Ms. Briscoe said “they do. I never walk them. I have my own dogs that I take care of.”
- n. When asked to elaborate on their training, Ms. Briscoe said it is conditioning for dog shows. When asked if she showed her dogs regularly, Ms. Briscoe said not since Covid, which shut down the shows.
- o. When asked about the redness of the Animals’ paws, Ms. Briscoe surmised this was likely a reaction to non-organic straw or from licking to keep them warm, adding that although she was helping them, “Chris is the one who looks after the dogs as I am very busy.” She added that had not noticed any reaction to the non-organic straw.
- p. When asked if she felt minus 30 degrees Celsius is appropriate for dogs, Ms. Briscoe replied not if there is no doghouse, but in this case, the doghouses are all packed with straw and have heaters.
- q. Ms. Hunter referred to veterinary records Ms. Briscoe had produced from Dr. Darren Ludbrook, Candle Creek Veterinary Clinic in Clearwater showing 20 vet visits from May 23, 2012 to May 2, 2019, noting that all predated the arrival on her Property of the Animals. Ms. Briscoe said that was correct, and that these records were for her own dogs. Adding again that the only dogs she owns are Songbird and Charlie.
- r. When asked if Mr. Pratt leaves the Property for long periods of time, Ms. Briscoe replied he does not.
- s. When asked why, if Ms. Briscoe was not the owner of the Animals, did she tell the Society on the day of seizure not to take the Animals to the vet because she “could not afford it”, Ms. Briscoe replied that, if necessary, she would have paid the vet bills on behalf of Mr. Rauch and Mr. Pratt and sought repayment afterwards because they were her friends.
- t. When asked if she felt Mr. Pratt’s health issues allowed him to still care for the Animals with Mr. Rrauch off the property, Ms. Briscoe replied “yes, but Kevin would probably place the dogs with other people and not expect Chris to care for them.”

- u. When asked if the Animals were permitted to play together, Ms. Briscoe said they are placed on adjacent [parallel] runs where they can play “tug of war” and also exercise on a horse walker, but they never play together physically.
 - v. Ms. Briscoe noted that 4 or 5 of the Animals came originally from Alberta and were picked up by Mr. Pratt. The dogs were bred, producing the white coated dogs.
 - w. Ms. Briscoe recounted how she had gone on-line to research ways to heat the kennels and came up with a way to modify a power box by “taking the guts out and putting in ceramic bulbs – light bulbs” and placing them under the dog houses attached to power cords. When asked if they were functioning, Ms. Briscoe replied “you can see them at night.”
46. When Ms. Hunter finished her cross examination, the Panel asked further questions of Ms. Briscoe, drawing the following additional evidence:
- a. Ms. Briscoe has lived on the Property for 14 years. Her husband died in 2011. She describes herself as a farmer and used to have chicken and cattle and produce rodeo bulls. She noted that the SPCA had cost her \$47,000 in legal and relocation expenses 14 years ago when they seized her animals.
 - b. When asked when the Animals were moved to her Property, Ms. Briscoe said this was before Covid hit, so likely 2.5 years ago.
 - c. When asked how the Animals came to live on the Property, Ms. Briscoe said that her friend, Ted Yates, had called her one day and asked if she was still showing dogs and if she wanted some more. She said she had her own dogs and did not want any more. Mr. Yates asked her if she knew Kevin Rauch. She said she did. Mr. Yates asked if he could give Mr. Rauch Ms. Briscoe’s phone number because he was “stuck for a place” to keep his dogs, which were in Alberta at the time. Ms. Briscoe agreed to Mr. Yates passing on her phone number to Mr. Rauch.
 - d. Mr. Rauch contacted Ms. Briscoe and asked if he could house his dogs on her property. Ms. Briscoe agreed to help him out.
 - e. Mr. Pratt arrived from Alberta with 4-5 dogs and dog houses. Mr. Pratt was living with his mother at the time. She passed away very close to the time the dogs were placed on the Property and, rather than travelling back and forth to look after the dogs, he decided to also move to the Property to look after them.
47. Ms. Briscoe called her first witness, Mr. Ted Yates, who was sworn in.
- a. Mr. Yates was introduced by Ms. Briscoe as an expert witness on pit bull terriers. He has worked with the breed for 45 years and has served as a judge for the American Dog Breeders Association. Mr. Yates founded, with Ms. Briscoe, the former American Pit Bull Club of BC.
 - b. Ms. Hunter did not accept Mr. Yates as being able to provide expert testimony in any of the matters before the Appeal Hearing. The Panel agreed that Mr. Yates experience with pit bull terriers was not directly relevant to the

issues of whether the Animals were in distress at the time of seizure and whether the Animals could be safely returned to the Appellants, and as such Mr. Yates was not accepted as an expert witness.

- c. Mr. Yates continued as a regular witness, and in response to Ms. Briscoe's questions, testified that he has known Ms. Briscoe for 25 years or more. In the time he has known her, Mr. Yates has never seen Ms. Briscoe's dogs not properly cared for. He has seen Mr. Rauch and Mr. Pratt's dogs and believes them to be healthy.
 - d. In response to cross examination by Ms. Hunter, Mr. Yates further testified:
 - a. He lives in Greenwood and has visited Ms. Briscoe's property only once in the winter and was not there in the winter of 2021.
 - b. He had made several dog houses for Ms. Briscoe that were insulated with 1 ½" Styrofoam. Mr. Yates said there was always an abundance of hay in the dog houses and that his dogs stay warm inside the same kind of house. He added that Ms. Briscoe makes her own dog food.
 - e. When Ms. Hunter finished her cross examination, the Panel asked Mr. Yates to elaborate further on the characteristics of the pit bull breed. He testified:
 - a. The pit bull breed is easily excited, and it is not unusual for owners to keep dogs separated from each other because "it doesn't take much for them to get into a scrap."
 - b. When dogs do fight, you need a to use a breaking stick – a hammer-like handle with a wedge at the end - to insert between their teeth to pry open their jaws.
48. Ms. Briscoe called her second witness, Mr. Chris Gower, who was sworn in and provided the following testimony:
- a. In early December of 2021, when Mr. Gower was going through a "bad patch" and needed a place to leave his dogs, he asked Ms. Briscoe to help him out. She agreed to help him, and he moved 3 dogs to the front laneway of her Property. One had come from a boarding kennel in Manitoba and was thin. All were house dogs and not "winter conditioned".
 - b. On December 14, 2021 a passer-by saw two of Mr. Gower's dogs, one of which was the thin one, at the edge of the Property and notified the Society.
 - c. Mr. Gower contacted Ms. Briscoe just after Christmas to advise he would pick his dogs up in mid-January. Ms. Briscoe told Mr. Gower that although she had switched two of the dogs to insulated kennels (the third was apparently more difficult to manage) and was feeding them more food to help keep them warm, they were not doing well and were losing weight and asked him to come and pick them up.
 - d. Mr. Gower picked his dogs up on December 28, 2021.
 - e. In response to cross examination by Ms. Hunter, Mr. Gower further testified:

- a. When he dropped the dogs off, he was worried because they were not conditioned for the winter weather. The temperature that day was 4 Celsius. Mr. Pratt helped him put the dogs in houses. They put a door on one of the houses. Two of the houses did not have doors but were better houses - the inside was offset from the door, so the dog inside was more protected from the wind.
 - b. Ms. Briscoe fed the dogs home-made stew with kibble, and they were healthy when he got them back, although they had lost weight and it took one dog a few days to hydrate.
 - c. Mr. Gower did not visit the Property from the time he dropped the dogs off in early December until he returned to pick them up on December 28, 2021.
 - f. When Ms. Hunter finished her cross examination, the Panel asked Mr. Gower if Ms. Briscoe had agreed to take responsibility for his dogs and care for them while he was away for the month and he replied yes, she had agreed to look after them in his absence, though he felt badly about “dumping them on her”.
49. Ms. Briscoe called her third witness, Mr. Chris Pratt, who was sworn in and provided the following testimony:
- a. Mr. Pratt was home when the Society visited the Property on December 29 and 30, 2021. Since his recent heart attacks, Mr. Pratt’s health has been poor (“I have 10% of my heart left”). If Mr. Rauch were still living at the Property, he would be the one caring for the Animals. Given his failing health and Mr. Rauch’s absence, Ms. Briscoe has been helping him care for the Animals, but Mr. Pratt does “most of the work”
 - b. Mr. Pratt was upset on the day of the seizure because he feels the Animals were not in distress. They were in good condition and their weights were good, noting that Stephanie makes “such a good feed” for them. He did not believe they were dehydrated.
 - c. Mr. Pratt said he has a temperature gun from his work with the railway but did not recall when he last used it. He felt the straw and hay kept the dog houses warm. Sometimes, when it is cold, the Animals were brought inside. He stated that food is never left outside for the Animals because of rodents. The Animals and then the bowls are removed.
 - d. Mr. Pratt was involved in making some of the dog houses and others they brought from Alberta. All of the doghouses on the Property are insulated.
 - e. In response to cross examination by Ms. Hunter, Mr. Pratt further testified:
 - a. Ms. Briscoe makes the feed for the Animals, but Mr. Rauch and Mr. Pratt are responsible for feeding them. Ms. Briscoe does not go out and feed them. (“She does enough for us – we are glad to be able to keep them there...”)

- b. Mr. Pratt lives in a second mobile home on the Property. It is 10' by 50' in size and has two bedrooms.
- c. Mr. Pratt and Mr. Rauch own the Animals – one belongs to Mr. Pratt and 8 belong to Mr. Rauch. They are not co-owners of the Animals.
- d. Three dogs on the property – Songbird, Roxy and Charlie, who were in Mr. Pratt's residence - were not seized. Mr. Pratt is also the owner of Roxy.
- e. Mr. Pratt is still living on the Property and has no plans to move in the near future.
- f. There are 17 dog houses on the Property - some brought to the Property by Mr. Rauch and Mr. Pratt. Not all the dog houses are insulated but the Animals were in insulated dog houses. Some dogs are "hard keepers" and chew up their houses, removing the door and such. Most of the doghouses do not have doors but instead have offsets to keep the wind off.
- g. Mr. Pratt is retired from the railway. When he is there, Mr. Rauch cares for the Animals, including their feeding and watering and exercise. In his absence, Mr. Pratt cares for the dogs by himself. When asked by Ms. Hunter if Ms. Briscoe has any responsibility for the care of the dogs, Mr. Pratt said she does not. Mr. Pratt responded that he feeds (twice or three times a day in winter) and waters all the dogs himself; in the winter they also soak their food. None of the dogs have dietary restrictions. Mr. Pratt also checks their collars and bellies to make sure there are no sores or rubs, checks their leads to make sure they are secure. He also checks them for dehydration by pulling up the skin on their backs to see if it "tents" and if it goes down slowly, they need more water. In the cold weather he constantly checks their water bowls to make sure they have not frozen. Mr. Pratt noted that he had a kennel license in Kamloops for 22 years, that he kept 7 to 15 dogs in his yard, and that he never had one complaint.
- h. Mr. Pratt noted that none of the dogs are spayed or neutered. There have been two breedings since they came to the Property, producing two litters of 4 or 5 puppies each. One breeding occurred a year ago, and one breeding occurred the year before. Mr. Rausch and Mr. Pratt kept 2 pups from each litter and gave the rest away to a friend.
- i. When asked if the Animals have toys, Mr. Pratt said yes, they do. When Ms. Hunter pointed out the Society found only one toy, Mr. Pratt said the rest must have been covered in the snow. The toys include balls and ropes to pull on.
- j. Mr. Pratt testified that he walks the Animals daily up the hill and also puts them on a horse walker and a tread mill in the kennel. Two dogs might be put on parallel cables so they can run back and forth next to one another but can't get to each other. They play tug of war. Each dog would be

walked every 3 days or so and receive 2-2.5 hours of exercise. Mr. Pratt has some dog jackets they can wear in the cold.

- k. Mr. Pratt stated that the Animals are kept separate from one another to avoid problems. He further noted that when Mr. Rauch is on the Property, they each walk a dog at the same time and that Ms. Briscoe never walks the Animals.
- l. Ms. Hunter asked if Mr. Pratt recalled a remark that he'd made to SPC Chapman on the day of the seizure. Having difficulty removing the clasp, SPC Chapman had asked "how long has this dog had been on this chain?" and Mr. Pratt told him "at least three days". Mr. Pratt did not recall the remark and said that he was pretty ill at the time. "Well, if that was true, does that mean the dog was not coming in at night?" asked Ms. Hunter. Mr. Pratt said the clasps were taped shut and they removed their collars to bring them inside. When asked if they come in every night, Mr. Pratt said when the temperature falls below minus 20 degrees Celsius they bring them in because their feet get sore from the cold snow.
- m. He further stated that when the Animals are inside, they are kept in kennels except to go out to pee. Four dogs stay in the kitchen, five dogs in the back room and two in the living room, all in different crates. The dogs would come in at 6 pm and go out the next morning at 8 am.
- n. Ms. Hunter asked about the heaters under the dog houses. Mr. Pratt replied that they are two or three years old and are in the houses that are elevated on a box from the snow (so not in all dog houses). Ms. Hunter asked, "When was the last time you checked the dog houses to see how warm the floor was?" He could not remember the last time they had been checked to see if they were working but noted that the light should be visible at night. Mr. Pratt said he checks the Animals by hand every day and when it's really cold he checks the temperature with his temperature gun. Mr. Pratt said he had checked the Animals several times since December 21, 2021 and "it must have been fine since I didn't bring them in."
- o. Ms. Hunter asked Mr. Pratt if he had noticed any hair loss in his daily checks of the Animals. He said with the exception of Apple, he had not noticed hair loss, and that they were going to do some blood work on Apple. Mr. Pratt admitted that the dog Penny was underweight, but noted she had recently had a litter of pups. Ms. Hunter asked how frequently the Animals had visited the vet. Mr. Pratt replied there had been one veterinary visit for a caesarian birth, adding that the cost of vet visits was a factor.
- p. When asked by Ms. Hunter how he supports himself, Mr. Pratt said he has a pension from the railroad plus OAS and CPP. He feels he and Mr. Rauch have the financial ability to care for the Animals plus his dog that was not seized (10 in all). Referencing his poor health, Ms. Hunter asked if Mr. Pratt felt medically capable of looking after 10 dogs right now,

taking them for regular walks, etc. Mr. Pratt said yes, but it is easier when Mr. Rauch is there. Ms. Hunter asked “But what about when Kevin leaves? He doesn’t live on the property full time. What about when Kevin leaves?” Mr. Pratt replied that Mr. Rauch is going to be living there permanently.

- f. When Ms. Hunter finished her cross examination, the Panel asked Mr. Pratt some further questions:
 - a. When asked about his heart condition and specifically his comment that he has “10% of his heart left”, Mr. Pratt replied that is what the doctor told him, and he is on medications. When asked if the doctors did not also recommend lower exertion levels, he replied they did, but he was not on restricted physical activity – he has just been really stressed by the seizure and misses his dog, and the dog Apple, and is worried what will happen to him.
 - b. When asked when was the last time Mr. Rauch visited the Property, Mr. Pratt replied that Mr. Rauch tries to get out a couple of times a week, but before his accident he was living there permanently. His accident was in the fall, and he was hospitalized for 3 months or so; now he stays with his mom in town. Up until October he lived on the Property in the second mobile home with Mr. Pratt.
 - c. When asked when Mr. Rauch would be returning to live full time on the property, Mr. Pratt said “he is already here – he has moved back.”

50. Ms. Briscoe’s final witness was intended to have been Mr. Rauch, however Mr. Rauch was not available when he was scheduled to give evidence as he had fallen asleep, potentially due to a change in medications. Ms. Briscoe was concerned that it might be harmful to attempt to rouse Mr. Rauch in those circumstances.

51. Ms. Hunter noted that she had questions that she’d wanted to ask of Mr. Rauch, but given the new evidence that had emerged during the hearing - that Mr. Rauch had not been living on the Property for the past three months - he could not give evidence as to the living conditions of the dogs during that time. So other than questions of ownership, which Ms. Briscoe and Mr. Pratt had done their best to answer, Ms. Hunter concluded that if Mr. Rauch was truly unavailable due to a medical reason, then his evidence would not be necessary to continuing with the hearing.

VII. RESPONDENT’S EVIDENCE

52. The Society, represented by Ms. Hunter, called their first witnesses: Dr. Rebecca Campbell. Dr. Campbell was sworn in and qualified by the Panel as an expert witness in veterinary medicine. Dr. Campbell is a veterinarian in good standing with the BC college of Veterinarians and is licensed to practice in the province of

British Columbia. She received her D.V.M. from the University of Saskatchewan and is currently a practicing veterinarian at Aberdeen Veterinary Hospital where her expertise includes dogs, and she is familiar with the pit bull breed.

- a. Dr. Campbell testified that she had examined all nine of the Animals in her Clinic on the afternoon of the seizure (December 30, 2021) and reviewed her findings (summarized at paragraph 39 of Section V BACKGROUND).
- b. She noted that the Animals all appeared bright and alert, with good body energy and body conditioning and appropriate body scores. The majority of them (8 out of 9) were dehydrated, two had frost bite lesions and one had significant skin disease (pyoderma). Most had pododermatitis, a bacterial infection between the digits of their feet (between their paws) that results in red and inflamed skin and is moisture related. Some were suffering from skin loss. Some had local lesions at the points of their bones, like the elbows, perhaps caused by pressure in a crate. "A lot" had hair loss around their ventral neck, which Dr Campbell suggested was caused by abrasion. Some had healed scars from wounds on their heads. One dog was underweight.
- c. Dr. Campbell testified that what she observed, with the exception of the pyoderma, would have resulted from the Animals being kept outside at inappropriate temperatures. Dr. Campbell testified that northern breeds of dogs, which have a double coat that provides water resistance and insulates them from the cold, also have substantial hair growth between their pads and on their ears. This keeps them protected from winter conditions. A double-coated northern breed would be quite comfortable outside at minus 20 or minus 30 Celsius. A single coated dog like a pit bull, with thin hair around its belly and groin and on the skin between its pads and not much hair on its ear flaps, keeps the same coat year-round and would be uncomfortable at below-freezing temperatures for a prolonged period of time.
- d. Dr. Campbell stressed the importance of potable water being available to the Animals at all times and explained how she tests for dehydration, which she found in eight of the nine dogs, one severely so.
- e. Ms. Hunter asked Dr. Campbell about the Animals' need for regular walks and socialization. Dr. Campbell said they need regular exercise – although at minus 30 degrees Celsius not so much as they need energy to stay warm – and some sort of regular mental stimulus which they get through interaction with humans and other dogs. When asked by Ms. Hunter if it was appropriate to keep dogs on a chain for 3 days without exercise or mental stimulation, Dr. Campbell replied it was not. They need daily interaction and part of that is through touch. "I think being left at the end of a leash would create a lot of frustration in a dog" Dr. Campbell testified. Being tethered and constantly being unable to reach each other, they may try to communicate through barking which can create stress anxieties. She further noted that removing the Animals from their leashes once every three days was not fair nor appropriate.
- f. Ms. Hunter asked if the neck abrasions observed on all the Animals would be consistent with them struggling against their collar at the end of a leash for

prolonged periods of time trying to access each other and Dr. Campbell confirmed this would be the result, and that constant struggling against their collars would result in skin sores under the collar and hair loss.

- g. Ms. Hunter asked if it would be comfortable for these Animals to be sleeping outside at minus 10 Celsius, and Dr. Campbell replied that it would depend on a number of factors, including their ability to get out of the wind. However, given their hair coat, she did not feel that they would be safe or comfortable, and that it is just common sense. She noted that if they were a northern breed they could be quite content and happy at minus 10 Celsius, provided that they had shelter from the wind and appropriately dry bedding, but pit bull hair coats aren't conducive to such temperatures.
- h. Ms. Hunter asked Dr. Campbell, "If these dogs were kept outside... periodically throughout the month of December 2021 without continuous access to water and... stuck on a leash for three days at a time, would you have concerns about those dogs being returned to that environment?" Dr. Campbell confirmed that she would have concerns.
- i. Ms. Hunter finished her examination and Ms. Briscoe proceeded with cross-examination of Dr. Campbell and drew forth the following additional evidence:
 - a. Dr. Campbell examined all of the Animals on the afternoon of the seizure. The fact that some of her veterinary records note Dec 31, 2021 is a result of that being the date on which she entered her examination notes into the system to complete the medical record.
 - b. Ms. Briscoe questioned Dr. Campbell's finding of 10% dehydration, suggesting the Animals would have been exhibiting weak pulse, sunken eyes and altered consciousness at that level of dehydration. Dr. Campbell said those symptoms would not be observed unless the animal was "definitely more than 10% dehydrated." Ms. Briscoe asked if Pedialyte or lactated Ringer's had been administered. Dr. Campbell replied that at 10% dehydration all that is required is access to potable water.
 - c. Ms. Briscoe questioned Dr. Campbell's finding of erythema, claiming it was very rare. Dr. Campbell replied that erythema was simply a description of the level of skin redness, indicating inflammation. She noted that all of the Animals had erythemic skin in their toes and most had it under their collars. Ms. Briscoe asked if the erythema could be an allergic reaction to non-organic hay and whether Dr. Campbell had skin scrapings? Dr. Campbell replied that it was possible that the erythema had resulted from the non-organic hay but noted that she didn't need to do skin scrapings (which are not for identifying allergies but for parasites) to know what it was. Dr. Campbell noted that constant exposure to moisture breaks down the natural skin barrier, allowing bacteria that is always present to create infection. The Animals' skin infections were treated at the clinic with bathing and ensuring that the affected areas remained dry.

- j. When Ms. Briscoe finished her cross examination, the Panel asked Dr. Campbell further questions on how the redness observed on the ventral neck and paws of many of the Animals might have been caused:
 - a. Dr. Campbell said the Animals' hair coat is very thin along the ventral part of their body and this could be the result of rough bedding (hay is irritating), it could be due to an allergy, it could be the result of their metal chains rubbing against their coat, it could be from going in and out of their shelters if the doorway is small, or it could be a combination of factors.
 - b. With respect to the redness and infection of the Animals' paws, the Panel noted that it had been suggested by Ms. Briscoe that this could be from an allergy to non-organic hay, and asked Dr. Campbell if it would be usual for all of the Animals to exhibit the same allergy to hay. Dr. Campbell stated that she did not believe that the noted skin conditions were the result of hay allergies in the Animals, and that the most likely explanation was that as a result of the ongoing exposure to the cold and wet environment the skin barrier in the Animals broke down allowing bacteria to multiply and cause infections.
 - k. When the Panel finished, Ms. Hunter asked Dr. Campbell a final follow-up question as to whether paw lifting - when a dog lifts one paw then another, switching them around - indicates that the dog is uncomfortably cold. Dr. Campbell replied "absolutely". Ms. Hunter asked Dr. Campbell if she would expect a dog owner observing this to know that the animal was uncomfortably cold, and Dr Campbell replied "yes".
 - l. When Ms. Hunter finished, Ms. Briscoe asked Dr. Campbell a final follow-up question about paw lifting – whether it could have been simply because visitors were there, and the dogs were outside their houses to see what was happening. Dr. Campbell replied paw lifting is when their feet are experiencing pain and they will stand on three legs and lift one off the ground, whereas playful paw lifting is caused by jumping body movements.
53. The Society called its second witness, Special Provincial Constable Leah Dodd. After being sworn in, SPC Dodd testified to the events leading up to the seizure and the seizure itself (summarized in paragraphs 22 to 38 of Section V). In her direct testimony and subsequent cross examination, the following additional evidence was presented:
- a. SPC Dodd attended the Property because the Society had received two calls of animals tethered in the cold weather – one call on December 14, 2021 and another call on December 23, 2021.
 - b. During the first visit to the Property on December 29, 2021, SPC Dodd observed dogs that were shivering and shifting their weight on their paws. The temperature was minus 17 Celsius, with a wind chill of minus 30 Celsius. Ms. Briscoe and Mr. Pratt were at home at the time. When SPC Dodd told Ms. Briscoe she was concerned for the welfare of the animals, Ms. Briscoe asked

SPC Dodd to leave her property. SPC Dodd then posted a notice on the entrance gate that the dogs needed to have potable water and food within one hour and shelter from the cold within four hours, all to be confirmed by a call back to SPC Dodd by 4 pm that afternoon.

- c. SPC Dodd contacted a veterinarian at the Central Animal Hospital in Kamloops to ask whether the cold would be causing the dogs' distress. She was told that because pit bulls have a single light coat they would be in distress at such temperatures.
- d. SPC Dodd did not hear from Ms. Briscoe or Mr. Pratt as required by the notice and as a result she applied for and was granted a warrant for the following day to inspect the Property to determine whether or not the dogs were in distress.
- e. On December 30, 2021, accompanied by RCMP Constable Meyer and SPCs Chapman and Kokoska, SPC Dodd returned to the Property to execute the warrant. Ms. Briscoe, Mr. Pratt and Mr. Rausch were at the Property at the time of seizure
- f. Constable Meyer arrested Mr. Rauch for outstanding warrants and placed him in the police cruiser.
- g. SPC Dodd, Chapman and Kokoska walked the Property to inspect the conditions the dogs were being kept in and observed the following:
 - a. Nine dogs were tethered to chains attached to individual dog houses, shivering, lifting their paws and trying to lick bowls of frozen water. One dog was very skinny.
 - b. Given the temperature and their light hair coats, SPC Dodd believed the shelters were inadequate; no power cords leading to heaters under the houses were evident. SPC Dodd did not believe the shelters were heated. One dog had a toy, the rest did not.
 - c. SPC Dodd commented that her own fingers were blue and cold although she was only at the Property for a short time.
 - d. Three dogs that were inside Ms. Briscoe's residence were brought out for inspection and determined not to be in distress, although two of the dogs were ordered to be seen by a veterinarian.
 - e. There were two mobile homes on the Property. One was lived in by Ms. Briscoe and Mr. Pratt and the other, which appeared uninhabited, belonged to Mr. Rauch.
 - f. SPC Dodd observed no prints in the snow going up the hill where the Animals were allegedly being taken for exercise. SPC Dodd was concerned at the time that the Animals were tethered and did not have access to exercise.
 - g. SPC Dodd said Ms. Briscoe was afraid the Animals would be euthanized. SPC Dodd tried to explain to her the Society policy on euthanasia and

- reassured her that they would not be euthanized “just because they were pit bulls”.
- h. SPC Dodd noted that Ms. Briscoe, when told that they would be seeing a vet, asked “please, no vet” as she did not have the money for a vet.
 - i. SPC Dodd determined the Animals were in distress because they were deprived of adequate water and shelter, and as a result the Animals were seized.
 - j. The ownership of the Animals was unclear, so SPC Dodd issued three Notices of Appeal, one to Ms. Briscoe, one to Mr. Pratt and one to Mr. Rauch, each citing all of the Animals that were seized.
- h. Ms. Hunter finished her examination of SPC Dodd and Ms. Briscoe cross-examined the witness, resulting in the following additional evidence:
- a. Ms. Briscoe suggested that SPC Dodd did not notice the power cords to the heaters due to those cords being beneath the snow, and SPC Dodd replied that was a possibility, but that there was no fresh snow on the ground at the time of the seizure. Ms. Briscoe further suggested that the heaters had been installed last year, and therefore could have been covered with snow from earlier in the year. SPC Dodd agreed that was a possibility.
 - b. Ms. Briscoe asked SPC Dodd to comment on the apparent discrepancies between the Society intake exam and the exam done by Dr. Campbell. SPC Dodd said the Society staff were not veterinarians and have limited training so in the case of any discrepancies, the veterinarian records are the correct ones.
 - c. Ms. Briscoe asked SPC Dodd to confirm that Ms. Briscoe had taken her two dogs to the veterinarian to seek the medical care ordered by the Society. SPC Dodd confirmed that this had been done.
 - d. Ms. Briscoe noted she had tried multiple times to reach SPC Dodd on the evening of December 29, 2021 but that her calls would not go through. SPC Dodd said that all Society staff knew to immediately contact her in the case of a notice to alleviate distress, and that she had received no such calls.
- i. The Panel had several questions for SPC Dodd to clarify some of her evidence:
- a. When asked what she meant by her statement that the Animals were “crawling on their sides to get off their feet”, SPC Dodd replied that “they were curling like hunching their backs over and flopping onto their hip to get the weight off of their feet”.
 - b. When asked to clarify why she felt the second mobile home was unoccupied, SPC Dodd said it was because she saw no tracks of any animals or people going in or out.

- c. When asked how she determined that the upper exercise area was not being used, SPC Dodd replied that there were no tracks in the snow to that area.
 - d. When asked to explain the Society policy on euthanasia, SPC Dodd replied that the Society only will euthanize if the animal is deemed to be extremely aggressive to the point that it's a danger to society or when it is in distress due to severe medical conditions and a registered veterinarian determines that euthanasia is the best option.
 - e. When asked to explain if the Society has any special programs to identify new adoptive owners for dogs that may be harder to house, SPC Dodd replied no, in every case a behavioral assessment of the dog is undertaken, and on that basis, they attempt to match the dog with the new owner.
54. The Society called its third witness, Ms. Jody Ebert, a paramedic with the British Columbia Ambulance Service. After being sworn in, Ms. Ebert provided the following testimony:
- a. At approximately 4 am on December 22, Ms. Ebert responded to a call to the Property. Mr. Chris Pratt had suffered a heart attack.
 - b. At the time that she arrived at the Property, the exterior lights were on, and the ambulance lights were also on, thereby illuminating the yard.
 - c. There were at least 6 "very short haired" pit bulls chained to doghouses that did not appear to be insulated. The dog nearest the front door was very skinny. The temperature that night was forecast to drop below minus 30 degrees Celsius.
 - d. Inside the house, 2 dogs were locked in the living room and one more was in the back of the house.
 - e. Concerned for the wellbeing of the dogs tethered outside in the cold, Ms. Ebert called in a complaint to the Society the following day (December 23, 2021).
 - f. After Ms. Hunter finished her examination of Ms. Ebert, Ms. Briscoe asked in cross examination how Ms. Ebert had been able to see the nine dogs outside. Ms. Ebert replied that the yard lights were on, and the area was illuminated, and that she had seen 6 dogs outside and 3 inside.
55. The Society called its fourth witness, SPC Daniel Chapman. After being sworn in, Mr. Chapman provided the following testimony:
- a. When SPC Chapman arrived at the Property with SPC Dodd and SPC Kokoska at 1 pm on December 29, 2021, the temperature was -17 degrees. There were two mobile homes on the Property, the right one appeared to be unused and the one in the middle of the Property was occupied. There were multiple doghouses surrounding the main home. One of the dogs appeared

underweight and was shivering and paw lifting. There appeared to be no water for the dogs.

- b. The woman who answered the door acknowledged she owned “some of the dogs” but refused to provide her last name and asked them to leave the Property, saying that the Society had “cost her \$47,000 last time.”
- c. When SPC Chapman returned on December 30, 2021 with RCMP Constable Meyer and SPCs Dodd and Kokoska, the temperature was minus 20 Celsius. There were nine dogs outside. Ms. Briscoe, Mr. Pratt and Mr. Rauch were present at the Property. Mr. Rauch was arrested by RCMP Constable Meyer for breach of a no-contact order regarding Ms. Briscoe. Ms. Briscoe told SPC Chapman that she was going to look into dropping the charges against Mr. Rauch when he was arrested.
- d. Ms. Briscoe said she owns “some of the dogs”. Mr. Rauch said he owned five of the dogs and lived in the first mobile home on the right that appeared unoccupied. Later that morning, when questioned in the police car, Mr. Rauch claimed to own all of the dogs. SPC Chapman noted that the stories of who owned which dogs kept changing.
- e. SPC Chapman observed multiple dogs tethered by chains to doghouses. Their water bowls were frozen and they were shivering and paw lifting.
- f. SPC Chapman checked 7 of the shelters and took temperatures in 2 of them before the temperature gun stopped working due to the cold. The readings were minus 21 and minus 19 degrees Celsius. SPC Chapman also took the roofs off these 7 shelters and put his hand on the depressions in straw where the dogs would have lain, and he noted that it was ‘freezing cold’. When asked if the doghouses were insulated, he said he couldn’t say but that they were definitely not heated, and that he saw no power cords. SPC Chapman noted that Ms. Briscoe never mentioned an alleged heat source to the doghouses on December 30, 2021, and most of the doghouses were flush to the ground so that there was no space beneath them for any heaters.
- g. SPC Chapman noted that the Animals had no access to potable water, and some were licking the frozen ice in their metal bowls. He stated, “Their backs were hunched over so it kind of created like an arch that again they were lifting that, shifting their weight on their paw pads, lifting them up and down. And they were visibly shivering.”
- h. SPC Dodd was responsible for making the call of distress, but the three special constables discussed the decision together and SPC Chapman agreed with SPC Dodd’s decision. In his opinion, the Animals were in distress due to not having proper shelter from the cold and not having access to unfrozen drinking water.
- i. SPC Chapman was concerned that the Animals did not get off their chains very often. Ms. Briscoe said that they were brought in at night, but when trying to unclasp the chain for the collar of one dog it was frozen solid. He noted, “ I couldn’t get it off and so we ended up having to remove the collar and that was

pretty difficult to remove. It appears like it hadn't been removed from the long time, so I asked Mr. Christopher Pratt ... when the last time this dog came off the chain and he said three to four days ago." SPC Chapman did not see any tape holding the clasp closed – the clasp connecting the chain to the collar was "frozen solid." He noted that many of the collars on the other Animals were the same, and when they were removed "you could see hair loss."

- j. Ms. Hunter asked SPC Chapman if he saw any evidence that the Animals were being brought in at night. He said that he did not. There was no evidence (tracks in the snow) to suggest that the second mobile home was being used and he did not believe that 12 dogs would fit in the main home, particularly with dog aggression issues.
 - k. SPC Chapman was also concerned about lack of socialization for the Animals, noting that there were no prints – human or animal – leading up the hill to the exercise area.
 - l. Ms. Briscoe and Mr. Pratt helped load two of the more aggressive dogs. There was talk of a kennel, but SPC Chapman noted they were never shown inside one.
 - m. It was freezing cold at the time of the seizure. SPC Chapman had a face covering, a hat and three layers of thermals and noted that he was still freezing.
 - n. Two of the three dogs that were inside Ms. Briscoe's residence required veterinary care (dental exam for one, inspection of abdominal masses for the other) and an order was issued to that effect.
56. Ms. Hunter concluded her examination of the witness. Ms. Briscoe had no cross examination.
57. The Panel had a few questions for SPC Chapman concerning statements made to him on the day of the seizure with respect to where the Animals were housed at night and also the doghouse heating system.
- a. SPC Chapman was told the 12 dogs were brought in at night to Ms. Briscoe and Mr. Pratt's residence, "...which didn't seem realistic to me, especially 12 dogs that apparently have dog aggression and don't get along. "
 - b. SPC Chapman saw no evidence of occupation of the mobile home on the right of the driveway allegedly occupied by Mr. Rauch. There was snow cover there and there were no footprints leading to it, it looked like it wasn't being used. Mr. Rauch told SPC Chapman on the day of the seizure that he had not lived there for three months.
 - c. SPC Chapman noted that some of the doghouses were built flush to the ground which would not allow for a heating unit beneath them. He saw no evidence of interior warmth generated in any of the houses.

SUBMISSIONS OF THE PARTIES

X. THE APPELLANT

58. In an emotional statement, Ms. Briscoe said she had no closing argument to make, *“There is no point. I’m not a lawyer. What I don’t understand why they didn’t help us. Help us bring them in. You know, we got a guy with a bad heart and Kevin had a head on collision.... They didn’t want to help us. That’s all I have to say...”*
59. The Panel suggested to Ms. Briscoe that if she wished, she could make concluding remarks following Ms. Hunter’s summation, however she did not in fact make any further submissions on the substantive issues.

XI. THE RESPONDENT

60. Ms. Hunter summarized the position of the Society as follows, noting that in her use of the term “Appellants” she is referring to Ms. Briscoe, Mr. Pratt and Mr. Rauch, “although it seems Ms. Briscoe did not own any of the dogs that were seized.”
- a. It’s the Society’s submission that these Animals were being neglected leading up to the seizure. The evidence is that for most of December 2021, the Animals were being kept outside on their chains day and night during extremely cold temperatures.
 - b. All of the relevant evidence demonstrates that pit bulls cannot be left out in sub-zero temperatures for extended periods of time without being in distress. The Appellants have provided no real evidence to the contrary, they have simply suggested that the temperature wasn’t actually that cold or that the Society should have resolved the issue for them.
 - c. Mr. Pratt testified he takes the Animals inside at night when temperatures reach about negative 20 degrees Celsius. This suggests that when the temperature is below freezing but not minus 20, the Animals are left to live outside for 24 hours a day.
 - d. Not only were the Animals not brought in at night, but they were left alone on their chains for days at a time. Mr. Pratt admitted that each dog was only walked every third day or so, and their hair loss at the collar area is consistent with being stuck on chains pulling up their collars for long periods of time.
 - e. The poor living conditions of these Animals has had a negative impact on their health. Dr. Campbell has provided an opinion that this breed of dog, with its light, single hair coat, would be uncomfortable at temperatures below freezing. All of the Animals were dehydrated and suffering from hair loss. Two had frostbite lesions and all had skin infections between the digits of their paws, indicating that they had been left outside with wet paws for long periods of time.

- f. Considering all of the above, these Animals were clearly in distress at the time of the seizure on December 30, 2021 and the seizure was justified.
 - g. On the issue of return, it is for the Appellants to provide evidence at the hearing that the Animals will not be returned to a situation that will lead them back into distress. Yet there has been no evidence of a reasonable plan, and the health conditions of both of the owners makes it hard to believe that they will be able to better manage the living conditions of the Animals.
 - h. The Appellants continue to maintain that the Animals were not in distress. Mr. Rauch, owner of eight of the Animals, did not testify. Ms. Briscoe said she suspects Mr. Rauch wants to move the Animals. It appears that Mr. Rauch has been off the property for a number of months, and we have no evidence from Mr. Rauch on how often he will have to go back to Kamloops for treatment, whether this is an ongoing condition, whether he's cured. So there is no clear picture of what's going to happen to these Animals should they be returned to Mr. Rauch.
 - i. SPC Chapman testified that Mr. Rauch was arrested for breaching a no contact order with Stephanie Briscoe. There is not a clear picture here of whether Mr. Rauch is even a legally allowed to live on Miss Briscoe's property, let alone what his plans are for the continuing care of these Animals.
 - j. It is the submission of the Society that the Animals should remain in the care of the Society and not be returned to the Appellants.
61. Ms. Hunter summarized the cost accounting for the care of the dogs. The amount owed to the Society for the care of the nine dogs is \$13,293.99. If the dogs are to be returned, the Society requests that the monies.

LEGISLATIVE FRAMEWORK

62. 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.
63. 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.

64. 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.

65. The Appellants have 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.

66. With respect to the issue of costs Part 3, Section 20 of the *PCAA* states:

- (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.

67. 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)".

ANALYSIS AND DECISION

68. The first issue for the Panel to consider is whether the Animals were in distress at the time of seizure.
69. If the seizure of the Animals was as a result of the dogs being in distress, the next issue the Panel must decide is whether to return the dogs to their owners. Governing our thinking in this stage of the analysis must be whether allowing any or all of the Animals to return to the Appellants care 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.

70. 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.

71. 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."*
72. The evidence presented by the Society and the Appellants differ as to whether the Animals were in distress at the time of seizure.
- a. The Society submits that the Animals were in distress on the day of seizure, and in this assertion, they rely on the detailed photographic, video and written evidence provided by SPC Dodd, SPC Chapman and Dr. Rebecca Campbell, D.V.M., who examined the Animals following the seizure. It is the position of the Appellants that the Animals were not in distress at the time of seizure, and if they were, it is only because the Animals had come outside their doghouses into the cold temperatures when the Society's officers arrived. The Panel accepts the evidence of the Society and Dr. Campbell on this point. The observed paw infections, collar lesions, hair loss and frostbite did not come

about from the Animals being outside for an hour during the December 30, 2021 seizure.

- b. Ms. Briscoe asserted that the red and infected paws of the Animals were likely the result of an allergy to non-organic bedding material. Dr. Campbell disagreed, explaining how the constant moisture on the dog's paws breaks down the natural skin barrier, allowing bacteria to penetrate and infect the skin. The Panel finds Dr. Campbell, a veterinarian, more knowledgeable in such matters than Ms. Briscoe, and therefore more credible.
- c. With respect to the evidence that the walls of the majority of the doghouses were insulated with Styrofoam, and that some of the Animals were "hard keepers" and could have torn off doors and removed Styrofoam, the Panel finds the testimony of the Appellants and Ms. Briscoe believable that some of the dog houses were insulated and may have had offset bedding areas, but notes also from the photographic evidence that many of the doghouses lacked doors and were open to the wind and the cold.
- d. There was conflicting evidence on whether the doghouses were heated. Ms. Briscoe testified that she had found instructions on the internet how to create heaters consisting of a power box and a light bulb to be placed beneath the floor of the doghouses. The Society argued that there were no electrical cords visible, but the Panel finds Ms. Briscoe's argument that they could have been obscured by the winter snow cover plausible. Evidence from SPC Chapman notes that many of the doghouses were built flush to the ground, leaving no room for a heating device. After considering the photographs submitted in evidence, the Panel agrees with SPC Chapman that many of the houses were flush to the ground and most likely could not accommodate such a device, however other houses seemed to have a built-up bottoms that could have accommodated a bulb heater. However, while some kennels may have had heat capacity at one time, the evidence of SPC Chapman that he placed his hand into the depressions in the straw in 7 of the houses and in all cases it was frigid cold suggests that if there were heating devices in some of these doghouses, they were no longer functioning.
- e. There was conflicting evidence with respect to the amount of exercise the dogs received. Mr. Pratt testified he took them for walks approximately every 3 days, bringing them up a hill on the Property to an exercise area to put them on a horse walker. Both SPC Dodd and SPC Chapman testified that there was no evidence of any tracks, human or animal, going up that hill at the time of the seizure. If there had been a recent snowfall, this could have obliterated tracks, but testimony presented during the hearing suggested that there had not been snowfall for approximately 10 days prior to the seizure.
- f. There was conflicting testimony on whether the Animals were brought in at night, and also with respect to which of the two mobile homes they were allegedly housed. When he lived on the Property prior to his accident in October, the Appellants' evidence was that Mr. Rauch lived in the mobile home on the right as one enters the Property and that this is where the

Animals were housed in 11 crates when they were brought inside. It was not clear which mobile home Mr. Pratt lived in, but this is not material to the matters in this proceeding. The more important question is whether the Animals were left outside at night. There was no evidence of any footprints leading to and from the mobile home where the Animals were allegedly housed. The BCAS paramedic Ms. Ebert testified the Animals were outside at 4 am on December 22 when she was dispatched to attend to Mr. Pratt's heart attack. When asked by SPC Chapman on the day of the seizure how long it had been since a particular dog was off the chain, Mr. Pratt replied "three days." Ms. Briscoe and Mr. Pratt testified that they were making a plan to bring the Animals in, but needed to have Mr. Rauch tell them which dogs could be housed adjacent to others. Mr. Pratt testified he takes the Animals inside at night when temperatures reach negative 20 degrees Celsius. This suggests that when the temperature is below freezing but not minus 20, the Animals are left to live outside for 24 hours a day. Doctor Campbell has provided an opinion that these Animals, given their body type, would have been quite uncomfortable at these temperatures. Weighing the testimony, the Panel concludes that it is most probable that the Animals were not taken in at night but were in fact left outside for much of the month of December.

- g. 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 upholds Ms. Moriarity's findings that the Animals were in distress at the time of removal and that the December 30, 2021 seizure was justified under the *PCAA*.
73. 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.
74. Due to some confusion at the time of the seizure, it was not clear at the time of the Review Decision who the Animals were in fact owned by. That issue has been resolved in this proceeding such that the Panel finds that the ownership of the Animals is as set out at paragraph (15) above.
75. Ms. Briscoe's evidence, as confirmed by Mr. Pratt, is to the effect that she was simply helping out two friends who were going through difficulties and needed some help housing their dogs. In Mr. Pratt's case he was recovering from a recent heart attack, and in Mr. Rauch's case he was recovering from a recent car accident. The Animals remained in the care of Mr. Pratt and Mr. Rauch and it was from them that the Animals were in fact removed at the time of seizure. The Panel finds that Ms. Briscoe is not a 'person responsible' for the Animals as defined in the *PCAA*.
76. Ms. Briscoe filed the appeal of the Review Decision, again on the basis that she was attempting to help out her friends. Ms. Briscoe's role in this proceeding has been as a representative of the Appellants, but given her association with the

Appellants and her involvement with the Animals she has also given evidence for the Appellants.

77. In her January 22, 2022 Decision, Ms. Moriarity made reference to previous history Ms. Briscoe had with the Society dating back to 2006. As Ms. Briscoe was not “a person responsible” for any of the dogs which are the subject of this Appeal, the Panel does not consider Ms. Briscoe’s past history with the Society has any particular relevance to this Appeal process. Indeed this history was not raised by the Society during cross examination or in its submissions.
78. Turning to the matter of whether the nine dogs should be returned to their owners, Mr. Rauch and Mr. Pratt, the Panel considered the following:
 - a. In testimony presented throughout the hearing, it was evident to the Panel that the Animals have high care needs and require very specific management. Both Mr. Pratt and Mr. Rausch are now in poor health, which would make caring for these 9 “special needs” dogs a challenge.
 - b. As noted by Ms. Hunter in her summation, the fact that there was a no-contact order against Mr. Rausch with respect to Ms. Briscoe which led to his arrest on December 30, 2021 also raises concerns. While Mr. Rauch may be able to legally return to the Property now, if a similar situation arose in the future Mr. Pratt would once again be saddled with the responsibility of caring for Mr. Rauch’s 8 dogs.
 - c. The fact that Mr. Rauch, although in the same physical location as Mr. Pratt and Ms. Briscoe during the hearing, failed to give evidence is also of concern to the Panel. When it was his turn to give evidence, Mr. Rauch had “fallen asleep” according to Ms. Briscoe, and she couldn’t awaken him on doctor’s orders. The Panel finds this explanation lacks credibility. The fact that Mr. Rauch failed to allow himself to be examined on his care of the Animals and failed to present any plans for alleviating their distress were they to be returned to his care left the Panel with the impression that Mr. Rauch lacks an appropriate commitment to his dogs and will continue to expect others to shoulder his responsibility for their care.
 - d. Reviewing the photographs and video files of December 30, 2021, the Panel observed all of the Animals lifting their paws and some of the Animals attempting to lick what appeared to be frozen water in their bowls. Bloody snow was noted adjacent to some of the kennels. In the photographs taken after the seizure, hair loss was evident. Particularly sad was the large raw and blood-streaked patches on the necks and chests of several of the Animals.
 - e. Based on her experience as a veterinarian and her examination of the Animals, Dr. Campbell concluded that the care and attention required to provide adequate quality of life were not being met by Mr. Rauch

and Mr. Pratt, and that the Animals should remain in the care of the Society. The Panel agrees with that assessment and found the testimony of Dr. Campbell helpful in making its decision.

79. In weighing the evidence before it, the Panel upholds the Review Decision of Ms. Moriarity that the Animals should not be returned to their owners, Mr. Rauch and Mr. Pratt.

CONCLUSIONS and ORDERS

80. 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.
81. 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.
82. The Panel finds the Animals were in distress at the time of the seizure and that it is in the interests of the Animals to remain in the care of the Society.
83. 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.
84. 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 Appellants did not contest the calculation of costs in this proceeding. The Society is seeking costs as follows:

<u>Veterinary costs</u>	<u>\$1,894.94</u>
<u>Society time to attend seizure</u>	<u>\$ 410.85</u>
Housing, feeding and caring for the Animals	\$10,618.20
<u>Allergy testing and medication</u>	<u>\$370.00</u>
Total:	\$13,293.99

85. The Panel orders, pursuant to s. 20.6(c) of the PCAA, that Mr. Rauch and Mr. Pratt, the owners of the Animals, are proportionally liable to the Society for the reasonable costs incurred by the Society with respect to caring for the Animals. Specifically:
- a. Mr. Rauch, who owned eight of the dogs, is responsible for 89% of the Society's costs, or **\$11,816.88**.

- b. Mr. Pratt, who owned one of the dogs, is responsible for 11% of the Society's costs, or **\$1,477.11**.
- c. Ms. Briscoe, who did not own any of the dogs and was not a *person responsible* under the *PCAA*, has no responsibility for the Society's costs to care for Mr. Rauch and Mr. Pratt's nine dogs.

Dated at Victoria, British Columbia this 7th day of March 2022.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:

A handwritten signature in black ink, appearing to read "Wendy Holm". The signature is written in a cursive, flowing style.

Wendy Holm, Presiding Member

Appendix “A”

Exhibit #	Date (Received)	Received from	Document
Exhibit 01	Jan 17, 2022	BCSPCA	BCSPCA No Return Decision, Briscoe, Pratt & Rawch
Exhibit 02	Jan 24, 2022	Appellant	Briscoe NOA
Exhibit 03	Jan 24, 2022	BCFIRB	Briscoe v BCSPCA_P2202_NOA Process letter
Exhibit 04	Feb 1, 2022	BCSPCA	LT appellant and FIRB encl doc disclosure
Exhibit 05	Feb 1, 2022	BCSPCA	BCSPCA Document Disclosure Tabs 1-57
Exhibit 06	Feb 1, 2022	BCSPCA	Tab 3 of BCSPCA Document Disclosure
Exhibit 07	Feb 3, 2022	BCSPCA	Amended Index to BCSPCA document disclosure
Exhibit 08	Feb 3, 2022	BCFIRB	Summons – Jody Ebert
Exhibit 09	Feb 9, 2022	Appellant	Appellant email 1 - Witness and Expert Witness Contact Form
Exhibit 10	Feb 9, 2022	Appellant	Appellant email 2 – attachment Central Animal Hospital invoice
Exhibit 11	Feb 9, 2022	Appellant	Appellant email 3 - Vet record on Truck (1 attachment)
Exhibit 12	Feb 9, 2022	Appellant	Appellant email 4 – Physical examination date for dogs vs assessment (1 attachment)
Exhibit 13	Feb 11, 2022	Appellant	Appellant email 5 – dog and awards photos
Exhibit 14	Feb 11, 2022	BCSPCA	LT all encl submissions

Exhibit #	Date (Received)	Received from	Document
Exhibit 15	Feb 11, 2022	BCSPCA	BCSPCA submissions
Exhibit 16	Feb 11, 2022	BCSPCA	Affidavit 1 of Marcie Moriarty
Exhibit 17	Feb 11, 2022	BCSPCA	Updated doc disclosure
Exhibit 18	Feb 11, 2022	BCSPCA	Supplementary cost submissions
Exhibit 19	Feb 11, 2022	BCSPCA	Supplementary cost submissions – schedule A
Exhibit 20	Feb 11, 2022	BCSPCA	Expert witness contact form
Exhibit 21	Feb 11, 2022	BCSPCA	Witness contact form
Exhibit 22	Feb 14, 2022	BCSPCA	Amended Submissions of the SPCA
Exhibit 23	Feb 14, 2022	Appellant	Appellant email 6 – Appellant Witnesses – BCSPCA employees
Exhibit 24	Feb 14, 2022	Appellant	Appellant confirms dog names and Society IDs
Exhibit 25	Feb 17, 2022	BCFIRB	Appellant final submission not received

CORRIGENDUM

[1] This is a corrigendum to the Panel's Decision issued March 7, 2022 for paragraph 54(a) which is set out as follows:

54. The Society called its third witness, Ms. Jody Ebert, a paramedic with the British Columbia Ambulance Service. After being sworn in, Ms. Ebert provided the following testimony:
- a. At approximately 4 am on December 22, Ms. Ebert responded to a call to the Property. Mr. Chris Pratt had suffered a heart attack.

The **revised** paragraph 54(a) is set out as follows:

54. The Society called its third witness, Ms. Jody Ebert, a paramedic with the British Columbia Ambulance Service. After being sworn in, Ms. Ebert provided the following testimony:
- a. At approximately 4 am on December 22, Ms. Ebert responded to a call to the Property. When asked as to the reason for the call to BCAS, Ms. Ebert noted that she could not comment or elaborate on the reason for the call.

Dated at Victoria, British Columbia this 17th day of March 2022.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Wendy Holm, Presiding Member