

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

BETWEEN:

KRISTI GERIGK

APPELLANT

AND:

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia Farm Industry
Review Board:

Wendy Holm, Presiding Member

For the Appellant:

Kristi Gerigk

For the Respondent:

Andrea Greenwood, Counsel

Date of Hearing:

March 28, 2025

Location of Hearing:

Zoom

A. Overview

1. This is an appeal pursuant to s. 20.3 of the *Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372* (the PCAA) related to the seizure of eleven animals (ten cats and one dog) from the Appellant, Kristi Gerigk at her residence located in Clearwater, BC (the Property). While in the care of the Society, one cat was euthanized and five cats were surrendered, leaving four cats and one dog (the Animals) as the subject of this Appeal.
2. The Appellant is appealing the February 25, 2025, review decision issued under s. 20.2(4)(b) of the PCAA by Marcie Moriarty, Chief of Protection and Outreach Services, of the British Columbia Society for the Prevention of Cruelty to Animals (the Society).
3. Section 20.6 of the PCAA permits the British Columbia Farm Industry Review Board (BCFIRB), on hearing an appeal with respect to animals, to require the Society to return the Animals to their owner with or without conditions or to permit the Society, in its discretion to destroy, sell or otherwise dispose of the Animals. BCFIRB may also make orders with respect to any costs claimed by the Society. The Appellant in this case is seeking the return of the Animals.
4. On March 28, 2025, a BCFIRB hearing panel (the Panel) held a hearing via Zoom video conference. The hearing was recorded.
5. The Appellant was not represented by counsel. The Appellant gave evidence on her own behalf and called one witness: J.G.
6. The Society was represented by counsel and called four witnesses: Special Provincial Constable (SPC) Jamie Wiltse, Doctor of Veterinary Medicine (DVM) Megan Broschak, Z. P. and K. Z.

B. Decision Summary

7. The four cats that are the subject of this Appeal are to remain with the Society in its discretion to destroy, sell or otherwise dispose. The dog, Willow, that is also the subject of this Appeal, is to be returned to the Appellant by the Society.
8. The Appellant is ordered to pay the Society costs in the amount of \$5,828.30. The Appellant does not have to pay the costs owed to the Society prior to the return of Willow.

C. Preliminary Matters

9. On the morning of the hearing, BCFIRB received an amendment to paragraph 16(b) of the Society's Submission. The paragraph described the veterinary findings of one of the cats under appeal. The Society's amendment removed the words "grade 3/6 systolic murmur, serous discharge from her nose and sneezed during exam... class III malocclusion" and added the words "waxy debris in ears". The Appellant did not oppose the amendment and the amended document was included in the hearing record.

D. Material Admitted on this Appeal

10. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-10.

E. History Leading to Seizure of the Animals and the Day of Seizure

11. Prior to the events that led to the seizure of the Animals that are the subject of this appeal, the Society responded to a complaint in 2018 of unsanitary living conditions, hazards, fleas, and lack of veterinary care with respect to the animals in the care of the Appellant at that time. An order was issued by the Society to the Appellant to remedy the situation, and provincial child welfare authorities were notified as there was a minor in the home. The file was subsequently closed.
12. On February 2, 2025, the Appellant was unexpectedly hospitalized with respiratory syncytial virus (RSV) and pneumonia while attending a routine medical appointment. She was detained in quarantine for 10 days in the Intensive Care Unit at Kamloops' Royal Inland Hospital.
13. That same day, the Appellant's 73-year-old mother, who lived with her, fell in the bedroom. Her leg became trapped between her mattress and dresser, where she remained unattended for twenty hours. Concerned at not having heard from her mother, the Appellant called her son-in-law from the hospital and asked him to check on her.
14. On February 3, 2025, the son-in-law attended at the Property and, unable to extricate the Appellant's mother, called 911. Emergency response personnel attended the Property and took her to a different hospital. The son-in-law accompanied her, then spoke with the Appellant by text and phone.
15. Following learning of these events, the Appellant asked her son-in-law to look after her pets until she was able to return home, noting where bowls and food were kept. At this time, there were 10 cats and 2 dogs in the residence at the Property.

16. On February 4, 2025, the son-in-law returned to the Property, but found himself unable to look after the animals due to the smell of urine and feces in the home. He called the Society, reporting unsanitary and hazardous conditions and his concern for the one dog Meeka, who had open sores, was unable to walk, and appeared to be in distress.
17. On February 4, 2025, the Society contacted the Appellant in the hospital, expressing concern for the animals and suggesting their surrender to the Society. The Appellant said she was not prepared to give up her animals. The Society then suggested she at least surrender Meeka for euthanasia, and they could do a wellness check on the rest of the animals at that time. The Appellant agreed to this the following morning, February 5.
18. On February 5, 2025, SPC Wiltse visited the Property with the Appellant's son in-law, and found Meeka deceased. The dog Willow was lying next to her body. Observing the clutter and build-up of urine and feces in the home, the Society contacted the Appellant to tell her of Meeka's death, explaining that the remaining animals needed to be removed from the home until it could be sanitized, and that if no one could take them, the only option was surrender or apprehension. With no caregiver in place and unwilling to surrender, the Appellant preferred to have the Society apprehend the animals. She planned to apply for the return of the animals once she was released from hospital.
19. The Society applied for and received a warrant on February 5, 2025, which they executed the following day. Because of the conditions in the home, and the fact that the Appellant was unable to attend to the animals care or ameliorate their conditions, all of the animals (ten cats and one dog) were taken into care by the Society.

F. Review Decision

20. On February 25, 2025, Ms. Moriarty issued her review decision in which she outlined her reasons for not returning the Animals to the Appellant (the "Review Decision"). She reviewed the following documentation and submissions:
 - Information to Obtain Warrant (ITO) & Signed Warrant – February 5, 2025;
 - Notice of Disposition – February 6, 2025;
 - Warrant Photos & Videos – February 6, 2025;
 - File #388243 Inspection Follow-up Details (IFD) – February 7, 2025;
 - Veterinarian Invoices for the Animals – February 6, 2025;
 - Veterinarian Report for the Animals – February 8, 2025;
 - Current Status List of the Animals; and
 - Various email submissions from the Appellant.
21. Ms. Moriarty was satisfied, based on the evidence, that the SPC reasonably formed the opinion that the Animals were in distress, in accordance with the PCAA, and her action to take custody of the Animals to relieve them of distress

was appropriate. Ms. Moriarty further determined that it was not in the best interests of the Animals to be returned to the Appellant as a result of the unsanitary living conditions and the resulting health conditions experienced by the Animals. Ms. Moriarty determined that returning the Animals to the Appellant would only prolong their distress.

G. Key Facts and Evidence

22. In an appeal under the PCAA, the Panel must determine whether the Animals were in distress when seized and, if so, whether they should be returned to the Appellant.
23. In this case, the Appellant is not contesting that the Animals were in distress at the time of the seizure, and it is clear from the veterinary evidence and the evidence of the state of the Property at the time of the seizure that the Animals were in fact in distress. The only matter to be determined by the Panel is whether it is in the best interests of the Animals to be returned to the Appellant.
24. Below is a summary of the relevant evidence presented during the hearing and the submissions made by the parties. Although the Panel has fully considered all the evidence and submissions in this appeal, the Panel refers only to the evidence and submissions it considers necessary to explain its reasoning in this decision.

Appellant Testimony

25. The Appellant acknowledged that the Society had no other choice but to take the Animals into care. She further acknowledged that she had spoken with SPC Wiltse twice while in the hospital, once on February 4, 2025, when the Society requested she surrender Meeka, and again the following day when she was told Meeka had died and that the Society was concerned for her remaining animals. Since her family was not prepared to look after the animals, both the Appellant and the Society were left with few options. The Appellant stated she understood that if the Society took her animals into care, she would be able to apply for their return when she was released from the hospital. She admitted she may have misunderstood parts of the conversation since the discussion took place while she was medicated.
26. The Appellant stated that she was told by the Society while in the hospital that she had fourteen days to “deal with the situation”. After being discharged by the hospital following ten days of quarantine, she was left with little time to clean her home and prepare an email to the Society to explain why her Animals should be returned.
27. The Appellant noted that she often needs things explained to her several times and in a certain way to fully understand what is being said due in part to her

struggles with anxiety and dyslexia. She said the Society took no steps to help her put a plan into place to ensure all was done properly.

28. The Appellant said she was taking the seizure of her Animals extremely seriously and that she did not know why the Society accused her of nonchalance.
29. The Appellant acknowledged that the state of her home was unacceptable and that it smelled of urine and feces. She further noted that the conditions were worsened by the fact that the Animals were alone in the home with no care from February 2, 2025 (the day of her hospitalization and her mother's fall) until February 6, 2025, when they were apprehended by the Society. During that time, the dog Willow, tore open garbage bags looking for food and, unable to relieve herself outside, had urinated and defecated in the home. The Appellant denied that there were any feces on the kitchen table nor on the couch.
30. The Appellant stated that the house had been in "absolute disarray" for over a year, following several rounds of bad news that had placed her in a state of depression which led to the overall deterioration of her living conditions. She said that she had been trying to clean it so her new grandson could come to visit, but her medical conditions (Crohn's Disease, Melkersson-Rosenthal syndrome, dyslexia and anxiety disorder) meant she was only able to clean for one or two hours a day. She stated that she had asked her daughter and son-in-law on numerous occasions to help her clean the home, and they had promised to do so, but had never followed through on their promises and that her daughter has since "cut me out of her life". Since the Appellant's mother's medical conditions made it difficult for her to be of any assistance, all cleaning of the home was left to the Appellant.
31. After discussions with the Society, and while still in hospital, the Appellant asked a social worker if there was someone who could help her clean the house, but she was told this would cost, with travel time, at least \$500, which the Appellant said she could not afford. She asked if someone from Clearwater might be available. The social worker replied that she would "look into that" but never responded further.
32. With respect to the clutter, the Appellant said some of the "garbage" referred to by the Society consisted of broken-down boxes for recycling and bags with food garbage to be picked up the Friday morning after her hospitalization. The "garbage piled chin high" in the living room consisted of mostly sealed boxes of sentimental items retained from the contents of former homes belonging to Appellant and her mother. The Appellant acknowledged that there were some feces in the area surrounding the boxes, but that she "did not realize it was so bad". The Appellant apologized profusely for the condition of her home and stated that she was "cleaning as fast as I can."

33. The Appellant explained that the dog Meeka, who she raised from a pup and was eighteen years old at the time of the Appellant's hospitalization, was frail and had been unable to walk for six months. The Appellant hand fed the dog moistened kibble and water three times a day, turned her and dressed the wounds on her hips with saline solution and antibiotic cream, and "cleaned her when she peed and pooped". To help her circulation, the Appellant said she attempted to hoist her with a bed sheet around her abdomen to a standing or sitting position and "bicycled" her legs daily. She gave the dog vitamins and Omega 3 and 6 supplements and made sure she had a fresh blanket and pillows. She said she could not afford euthanasia and tried to keep the dog comfortable, expecting her to die at home.
34. The Appellant said she believed the rest of the animals were in good condition before her hospitalization and that none were suffering. She was unaware of one cat's broken tooth. She acknowledged that the Animals had a flea problem, but she said she had recently spent \$250 on flea collars and flea repellent spray and used them regularly. She also had a "Sticky Dome" flea trapping device. She said they lived in the woods but did not have a problem with mice, as the cats took prompt care of them. She said she would never abuse or neglect animals.
35. With respect to the dog Willow, a two-year-old Presa Canario/Chesapeake Retriever cross raised from a 7-week-old pup, the Appellant said she fed her good quality dog food, gave her DentaStix daily to help reduce tartar on her teeth, and had also purchased a toothbrush for the dog. The Appellant testified that she walked Willow regularly, sprayed her once a month for fleas and continued to try, unsuccessfully, to look after her nails with a gentle grooming tool. The Appellant said Willow was her and her mother's emotional support animal and also served as a protection dog, explaining that she was training Willow to bark at predators, such as bears, cougars, and strangers who might come on the Property. She said Willow wore a shock collar but - after trying it on herself - only used it on the vibrate setting and only to stop her from chasing cars.
36. With respect to the ten cats, the Appellant said they were fed twice a day, and she cleaned their two large litterboxes twice a week, but with so many cats she admitted that she lost track of where they were defecating. She acknowledged there was a flea problem but stated that it was being kept under control with flea collars. The Appellant noted the dog Willow had no fleas, and that fleas were found on only two of the ten cats, most of which were wearing flea collars. The Appellant questioned how the Society could have said her Animals were infested with fleas.
37. The Appellant stated that the Society's veterinarian got the ages of the cats wrong, as their ages range from 7 to 10 years¹. All the cats are related to the same two parents. She testified that when the first litter was born, her daughter was going

¹ All cats are listed as 2 years old in the veterinary exam records and from 1-3, 1-4 and 5-7 years in Dr. Broschak's report.

through a rough patch and so she kept all the kittens to provide her daughter with emotional support. She was waiting for the male cats to come of age before neutering them at 7 months, but before she could do so brothers and sisters had in-bred. All males were neutered by the Clearwater vet in 2018.

38. The Appellant testified that she dewormed all her Animals regularly with products obtained from the local pet store, and that she regularly consulted the pet store employees for advice on products to treat various veterinary health issues as they arose.
39. The Appellant disputed the Society's assertion that a number of animals had recently died in her home as a result of clutter. She said she may have spoken to the Society about the cat Houdini while in the hospital, but he died in 2019. She stated that the only recent death was the cat, Monsieur in January. He was found on his back between the Appellant's mother's box spring and dresser with his paw caught in the bedding. The Appellant said he was still alive when she extracted him and administered CPR. Her efforts were unsuccessful, and he passed away. The Appellant noted that she had been trained and was CPR certified.
40. Under cross-examination about the deaths of former pets under her care over the past eight years, the Appellant provided the following information:
 - In 2018, the Appellant took her daughter's dog Molly to the Clearwater vet clinic with blood in her urine. The dog was diagnosed as anemic and required treatment that was only available in another clinic. The Appellant brought Molly to a veterinarian at 100 Mile House a day and a half later, however the dog died in her arms in the clinic parking lot.
 - In 2019, Houdini the cat died from what the Appellant believes must have been a heart attack. She found him deceased atop a pile of DVD's. She insisted Houdini was not killed by having had DVD's fall on him as claimed by the Society.
 - Sometime in 2020 or 2021, Buddy the cat began losing weight. The Appellant said she purchased medications from a pet store to help him gain weight, but they did not seem to help. Buddy died in her arms.
 - Sometime in 2023 or 2024, Pookie the cat – who was fine - began isolating. The Appellant thought she was coming into heat. She passed away a week later. The Appellant had no indication that she was sick, as she was not skinny and although she had some fleas, was not infested.
 - Marty the cat fell off a banister (date unspecified).
41. The Appellant said it had been very hard for her to surrender five of her cats to the Society, and that it would break her heart to also surrender Willow the dog and the four remaining cats as proposed by the Society on February 25 and 27, 2025, even in exchange for their offer to forgive veterinary and care costs.

42. The Appellant noted her bedroom is on the lower level of the home, but she has been sleeping on the upstairs couch since Meeka became ill “to be there for her”. Her mother sleeps downstairs and her daughter’s former bedroom is also downstairs but unused.
43. The Appellant said Dr. Broschak’s statement that she should not, in future, be permitted to own animals was unfair as the veterinarian had no knowledge of the context in which the Animals were apprehended.
44. The Appellant said she was working very hard to clean the home, noting that when her son-in-law had come to the house in January to fix a water tap, it made her feel proud that he complimented her on the “great job” she was doing.
45. When asked if the photos she had submitted to show progress in the cleaning effort were current she said no, a lot more had been accomplished since then, but she did not realise she needed to submit current photos. The Appellant testified that since her return from the hospital she has:
 - removed the food garbage bags and the food debris Willow left on the floor;
 - bagged a lot of the clutter for removal to the land fill;
 - cleaned and vacuumed the furniture and removed 95% of the dried cat feces;
 - scraped the stairs and other areas free of accumulated mud and feces and is still soaking one spot on the stairs with wet paper towels;
 - assembled the mops and buckets and cleaning products to mop the hardwood, tile and linoleum floors (there are no rugs) once the cleaning is complete; and
 - is looking for someone with a truck to take bags to the dump.
46. The Appellant said she had asked the Society for photos of the surrendered animals so she could have memories of them, but the Society has not responded to this request.
47. The Appellant admitted that the conditions that led to the seizure of the Animals were due to her conduct and took full responsibility for what had happened. She submitted that just because she had not done something in the past, did not mean she would not do it in the future. She admitted that she was wrong, that she should have taken Meeka to the veterinarian but did not, and stated that she would seek veterinary support in future when it was needed.
48. The Appellant stated that the Society had underestimated her income and her ability to provide proper care for her Animals. She noted that she receives Person with Disabilities and Canada Pension Plan, and that her mother also has pension income and helps with expenses.

49. The Appellant testified that her pain management and medical issues are now under control and that she has more energy to clean. She noted that she had made a plan to tackle the cleaning room by room until it was done and that she “will stick to it”. The Appellant testified that she arranged a spare key for her neighbour to look after the Animals if an emergency arose (as she looks after theirs), and that there were also people in town that she trusted who could come in and provide care if needed.
50. The Appellant noted she planned to move back downstairs now that Meeka had passed and to move the boxes with sentimental items from the living room to her bedroom, creating more open space upstairs. She added that ten cats were hard to keep up with and that with only four cats and one dog, it will be much easier to maintain proper living conditions and overall care.

Appellant Witness

51. The Appellant’s witness, J.G. is the Appellant’s mother and resides with the Appellant. J.G. testified that the Appellant took loving care of all her animals throughout their lives, and that the animals were not in distress before the Appellant’s hospitalization. J.G. noted the Appellant, “has always been there for all of us – I wouldn’t be here if not for [her]”.
52. J.G. testified that she was mobility challenged and unable to be of any great assistance to the Appellant in cleaning the home. She noted that she would contribute to the costs of hauling the garbage being removed from the Property by the Appellant to the dump.

Respondent Witnesses

DVM Megan Broschak

53. Dr. Broschak is a Doctor of Veterinary Medicine licensed in the Province of British Columbia and has been practicing since 2015. She was qualified by the Panel as an expert witness. Dr. Broschak attended to the Animals veterinary care after they were seized from the Appellant.
54. Dr. Broschak described the dog Willow as nervous and unsocialized, and not what she would expect of a dog trained in protection, for example a police dog. Dr. Broschak noted that Willow was wearing a shock collar on intake, noting that shock collars are unacceptable as a training method as they only served to increase the anxiety of the animal. In her written submission, Dr. Broschak noted that Willow had a body condition score (BCS) of 5/9, which under cross-examination she described as “ideal”. Aside from some mild tartar and gingivitis, overgrown toenails, and some vasculitis on one ear tip, Willow was in “good shape”.

55. Dr. Broschak noted some of the cats were underweight and a few were overweight, likely from food competition. Four cats had a BCS of 3/9, two had a BCS of 4/9, three had a BCS of 5/9, and one had BCS of 7/9. According to her report, most had mild dental disease, one had a broken tooth and six had dandruff.
56. According to Dr. Broschak's report, eight out of ten cats were wearing flea collars, which she described as ineffective. Fleas were found on only two of the ten cats and no fleas were found on the dog (Willow). Dr. Broschak testified that flea infestations can result in anemia or even death because tapeworms are usually also present and cause a loss of nutrients.
57. With respect to the accumulation of cat feces, Dr. Broschak testified that one litter box per cat is recommended and that the litter must be frequently changed. She said that when cat feces are allowed to accumulate, toxoplasmosis is a risk and this can result in infection.
58. Dr. Broschak, in her submitted and oral evidence, noted that six of the ten cats had heart murmurs (four grade 2/6 and two grade 3/6) due to inbreeding, and that this can result in congenital heart failure if the condition progresses. She noted that cats should be monitored against a baseline to see if the disease is progressing, and that anemia from fleas can exacerbate the risk of heart failure.
59. Dr. Broschak explained that one cat was euthanized because she was diagnosed with pyometra (an infected uterus), and her other medical issues (Grade 3/6 heart murmur, dental disease) made her an unlikely candidate for surgery.
60. Dr. Broschak agreed that if a dog's digestive system could not process nutrients because something else was going on in the body (e.g., diabetes or kidney disease) this could explain the starvation described in Meeka's necropsy report. Dr. Broschak stated that starvation is a general term that does not always mean withholding food, as it can occur due to the body's inability to uptake ingested nutrition.
61. Dr. Broschak testified that animals mask pain and it can be difficult for a pet owner to diagnose an animal in pain, as they often must rely on things like changes in appetite or behaviour.
62. Dr. Broschak agreed that the socialization expectations would be lower for a guard dog that was relied on to bark at strangers and wild animals compared to a professionally trained dog. Dr. Broschak further agreed that Willow's lack of socialization would not cause the dog to experience distress if she was returned to her familiar environment.

63. In her report, Dr. Broschak submitted that the Animals were in distress under three parts of Section 1(2) of the PCAA:
- Section 1 (2)a: lack of veterinary care (as indicated by chronic skin changes, over- grooming and fleas present on several of them);
 - Section 1(2) b: injured, sick or in pain (one cat found to have a broken tooth with exposed pulp); and
 - Section 1(2) c: abused or neglected (as indicated by urine staining on Willow's coat; dogs would not willingly lie in urine if they could avoid).
64. Dr. Broschak concluded her testimony by stating that she was confident in her recommendation that the Appellant should not have access to any animals or pets.

SPC Jamie Wiltse

65. SPC Wiltse first spoke with the Appellant at the Hospital on February 4, 2025, the day she received the complaint. This was the third day of the Appellant's hospitalization. SPC Wiltse testified that she read the Appellant a warning that a potential criminal offense may have been committed, and that her statements could be used in evidence. The Appellant told SPC Wiltse, that Meeka had been unable to walk for five months and spoke about the deaths of Houdini, Monsieur, and Buddy. SPC Wiltse asked the Appellant if anyone was available to take care of the Animals, and if not, offered the Appellant the option to surrender all her Animals. When the offer to surrender the animals was turned down, SPC Wiltse suggested that the Appellant surrender Meeka for euthanasia and that when retrieving Meeka, the Society would assess the environment for the rest of the animals given that animals had died in the home previously.
66. On the morning of February 5, 2025, SPC Wiltse and the Appellant spoke by phone. The Appellant agreed to surrender Meeka and SPC Steves went to the hospital to obtain signed consent. SPC Wiltse asked the Appellant if she had any plans to look after the remaining pets, and if not, that the Society would have to step in and take charge of them. SPC Wiltse asked if the Appellant had a social worker who could help her clean the home, and while speaking on the phone a social worker came into the room, and they exchanged contact information.
67. When SPC Wiltse attended the Property on February 5, 2025, with the Appellant's son-in-law, she found Meeka deceased. There was a strong smell of urine and a build-up of cat feces. SPC Wiltse put out food and water for the animals and phoned the Appellant to advise her that Meeka had died. She further advised that unless someone was able to pick up the remaining animals and look after them, the only options were surrender or a warrant. Since the Appellant had no one to step up to provide care and did not want to surrender the animals, the Society applied for a Warrant that was executed on February 6, 2025. SPC Wiltse stated that she did not enter into a conversation with the Appellant concerning the return of the Animals.

68. SPC Wiltse testified that when they executed the warrant, the Animals had been alone in the Property since February 2, 2025. She noted the strong urine smell, the accumulation of feces, and several fire hazards at the Property. She noted that two cats had died previously because of the clutter and unsanitary conditions at the Property.
69. When the Appellant filed her appeal with BCFIRB, SPC Wiltse reached out to her daughter and son-in-law. In a subsequent 3-way phone call in which the daughter “was very emotional and upset”, SPC Wiltse was told that five animals had died in the home in recent years from flea infestations and/or “trapped in the clutter”. The Appellant’s daughter noted that the Appellant was unable to walk Willow and that she did not want the Animals returned to the Appellant.

K. Z.

70. K.Z., is the nineteen-year-old daughter of the Appellant. She moved from her mother’s home to that of her common-law husband Z.P. in June 2023. K.Z. testified that all animal deaths since 2018 were due to either fleas or clutter, that the Appellant was unfit to care for animals, and that she should not be permitted to own any animals in the future.
71. K.Z. testified that three of the five cats who had died over the past 8 years (Houdini, Pookie, Buddy) perished from flea infestations. Of the other two cats that had died in the Appellant’s care, Marty repeatedly fell from banisters and Monsieur was trapped in clutter. K.Z. testified that the Appellant claimed that she tried to give Monsieur CPR, but K.Z. doubted that the Appellant “even knew CPR”.
72. In the case of K.Z.’s previous dog Molly who died in 2018, in the veterinary parking lot, K.Z. testified that it took two days for the Appellant to have the dog seen by the Clearwater veterinarian and another one and a half days for her to get Molly to the 100 Mile House clinic. K.Z. claimed that Molly’s death was also due to fleas. When asked on cross examination how she knew this, she said the daughter of the former Clearwater veterinarian had told her this in 2024.
73. K.Z. testified that Meeka had been in poor physical condition for a year. She described an incident where the dog had fallen down the stairs and dislocated her leg and the Appellant had put her leg back in the socket herself, causing the dog pain.
74. K.Z. noted that after June 2023 she initially visited the Property every few months, but had not visited at all since November of 2024.
75. K.Z. testified that the Appellant, due to medical issues (she relied on knee braces and a cane) had proven herself incapable of cleaning the home and of looking after herself, her mother, and the Animals.

76. On cross examination, K.Z. admitted that in 2018 she did not want the Society to take any animals from the home, however she noted that she was a child at the time.

Z.P.

77. Z.P. is the common law husband of K.Z. He said he visited the home on February 3, 2025 to allow first responders to extract and transport the Appellant's mother to the hospital. When he returned on February 4, 2025, the dog Meeka was in distress and the home smelled strongly of urine and feces. He did not feel safe looking after the Animals, so he called the Society.

78. Z.P. stated that he did not feel the Animals should be returned to the Appellant and that the Appellant should not be allowed to have animals in the future.

H. Analysis and Decision

79. Part 2.1 of the PCAA establishes the standards of care for animals and establishes a duty on those responsible for the animals to ensure those standards are met:

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

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

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

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

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

80. The definition of "distress" provides:

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

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

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

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

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

(c) abused or neglected.

81. We have also proceeded on the basis that the Appellant has an onus to show that the remedy they seek (return of the Animals) is justified. The first issue to consider is whether the Animals were in distress at the time of the seizure. Depending on

the answer to that question, the next issue is to decide, whether to return the Animals, or whether doing so would return the Animals to a situation of distress.

I. Distress

82. The issue of whether the Animals were in distress at the time of the seizure is not contested by the Appellant. The evidence clearly shows that the Animals' living conditions were extremely unsanitary and worsening by the day. With the Appellant and her mother hospitalized and no one to take over care and responsibility of the Animals, they were clearly in a situation of distress. The Panel finds the Society acted correctly and within their mandate when they took the Animals into custody.

J. Return of the Animals

83. In deciding whether to return the Animals to the Appellant, the Panel has considered all the information presented in the submissions of the parties and in the evidence provided at the Hearing. The Panel has also weighed the conditions of distress presented by the Society, against the likelihood that the Appellant could successfully rectify those conditions should the Animals be returned.
84. The Panel is guided by the courts, which considered this question in *Eliason v BCSPCA*, 2004 BCSC 1773. In that case, the court stated:
- “...The scheme of the Act clearly is designed to allow the Society to take steps to prevent suffering of animals, and also to allow owners of animals to retrieve them, or have the animals returned to them, if they are able to satisfy the Society that the animals will be taken care of.”
85. In *Brown v BCSPCA*, [1999] B.C.J. No. 1464 (S.C.) the court stated:
- “... 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.”
86. The question at this stage is whether the Appellant is capable of providing adequate care for the Animals. The onus is on the Appellant to prove the return of the Animals is in their best interests and to explain what, if any, changes have been made or will be made to prevent them from again ending up in a state of distress.
87. In this case, the circumstances that led to the Animals' distress at time of seizure were complex. All parties acknowledge that the unsanitary conditions in the home (build-up of cat feces and urine) placed the Animals in a situation of distress. That distress was exacerbated by the unexpected hospitalization of their caregivers, leaving no one to look after the ten cats and two dogs.

88. If the Property had come to the attention of the Society under different circumstances, the Appellant would likely have been given an opportunity to remedy the environmental conditions causing distress. It is likely the Society would have worked with the Appellant to develop a plan to accomplish this. But the unexpected hospitalization of the Appellant and her mother, and the unwillingness of any other caregiver to assist in the interim, left the Society with no option but to apprehend.
89. The Appellant freely admitted the state of her home was unacceptable, that it had been so for over a year, and took full responsibility for the unsanitary living conditions. The Panel finds that the Appellant has made and is continuing to make an honest effort to clean her home. She has actively – though without success – reached out to others for help: the hospital social worker who was going to look for a helper in Clearwater never got back to her; her daughter and son-in-law apparently promised but never followed through, her mother was unable due to her own disabilities. The Panel finds the Appellant sincere when she described her efforts to clean her home (removing household garbage, bagging clutter for the land fill, collecting and bagging the cat feces, vacuuming furniture and cleaning the floors). The Panel believes the Appellant when she says she was unaware, when she reported to the Society on February 17 that she had cleaned 70% of her home and removed 95% of the cat feces, that photos of her progress were required. (“...I do plan on sending pictures of a clean house, but unfortunately, I am still working on cleaning. I would say that 70% of the house has been put back together...”) The photos submitted in evidence by the Appellant show progress in removing the conditions that made the home unsanitary. The Panel notes that clutter is still evident in these photos, but absent unsanitary conditions, clutter does not necessarily equate with distress.
90. There was considerable evidence presented by the Society and their witnesses related to a flea infestation in the Animals. In the Review Decision, the Society describes the Appellant’s “hoarded home with extremely unsanitary conditions including ... infestations of mice and fleas”. The Appellant admits she was treating the Animals for fleas (cats wore flea collars and she sprayed Willow monthly for fleas) but denies allegations of a flea infestation. The Panel finds this assertion is supported by the evidence; the veterinary evidence was that no fleas were found on Willow and that fleas were found on only two of the ten cats. Similarly, no evidence of mouse infestation has been submitted. The Panel also found the Appellant sincere when she expressed surprise at the Society’s photo of a dead mouse on the couch because “we do not have a mouse problem – the cats always took care of them”.
91. The Society submitted that none of the Animals had been seen by a veterinarian since 2018. The Appellant admitted that her Animals have not been to a veterinarian since the local veterinary practice closed in 2018, and that this has been due to the cost of veterinary care and the distance she would have to travel to seek that care. The lack of veterinary care is a measure of distress that puts

animals at risk, and cost should not be a reason for not seeking veterinary care. The Appellant testified that she researched animal health matters on-line and worked closely with the local pet store to find remedies for issues as they arose: deworming the animals herself, ensuring flea protection, and feeding a premium diet. When, during the course of the hearing, the Appellant was informed by Dr. Broschak that low-cost veterinary care for persons living close to the poverty line is available in most communities, the Appellant said this gave her a new resource that she would certainly use in future.

92. The Appellant's assertion that she took good care of the Animals is supported by the veterinary examinations of the Animals on intake. With the exception of one cat that was euthanized due to a uterine infection and other complicating medical conditions, all of the remaining Animals were found to be in generally good shape. The dog Willow had mild tartar and gingivitis, no fleas and a body conditioning score of 5/9 (described by Dr. Broschak as ideal). The four male and six female cats had BCS ranging from 3/9 to 7/9 (four slightly underweight, two slightly overweight; attributable to food guarding by more dominant cats). Fleas were found on only two of the ten cats (all but one was wearing a flea collar).
93. Dr. Broschak testified that tapeworms were also a concern because they often coexist with fleas. Living in the intestine of the animal they compete for nutrients and pose further health hazards because they are zoonotic (infectious to humans). Once the eggs are excreted through feces, they are very difficult to sanitize against as the eggs are small and resistant to bleach. However, Dr. Broschak presented no evidence of tapeworms, and the veterinary reports provided by the Society show that parasitology tests were run on five of the cats with all testing negative for tapeworm and all other types of intestinal parasite.
94. According to the veterinary reports, tartar and gingivitis was relatively mild, one cat had a fractured tooth, and six of the ten cats had dandruff. The most concerning veterinary finding was genetic (i.e., due to inbreeding) resulting in six of the ten cats with heart murmurs ranging in severity between 2/6 to 3/6. Dr. Broschak recommended dental procedures for four of the cats and that those with heart murmurs should be monitored to establish a baseline.
95. The Society submitted that the Appellant does not have sufficient income to care for the Animals should they be returned to her, however no evidence was presented in this regard. The Society further claimed the Appellant could not afford care for the Animals because her disability income had recently been "cut in half", but again the Panel finds there was no evidence to corroborate this. The Appellant gave evidence that she has several streams of income (disability, pension) and that her mother also contributes from her pension to household and animal care costs.

96. The Panel finds there was conflicting evidence concerning the Appellant's understanding of whether a surrender or a seizure could allow for the return of the Animals to her care. When the Appellant agreed to the Society's apprehension of the Animals, she believed she would be given a chance to make the case for their return. The Appellant gave evidence that her understanding was based on a friend's similar experience (the Society had taken her animals but returned them on her release from hospital after she demonstrated to them that she could care for them). The Appellant chose to accept the apprehension of the Animals rather than surrender them in the expectation that she would be given a chance to prove that she could rectify the conditions that led to the seizure. The Appellant testified that this conversation occurred while she was medicated in the hospital and that she may have misunderstood what she was told by the Society. In any event, it was evident to the Panel throughout the hearing that the Appellant continued to believe if given the chance to demonstrate how she cared for her animals, they would be returned.
97. The Panel finds that the Appellant prioritizes the best interests of her Animals, as demonstrated by her surrender of five of the cats on February 23. The Panel further finds that the Appellant has proceeded on the honestly held belief that she can provide proper care for the Animals. She has proceeded on that belief despite repeated offers made by the Society to waive its costs if she would agree to surrender the Animals, placing herself at significant financial risk.
98. At the end of her report, Dr. Broschak recommends, based on her review of the distress provisions of the PCAA, that the Animals not be returned to the Appellant. Dr. Broschak notes that she is confident in her recommendation that "this owner should not have access to any animals or pets".
99. The Panel has duly considered Dr. Broschak's review and recommendations and notes in particular as follows:

Lack of Veterinary Care: The Panel agrees that a lack of veterinary care for the Animals since 2018 is a concern. The Panel notes that the Appellant's failure to provide Meeka with veterinary care/compassionate euthanasia is a more concerning example of violation of Section 1(2)(a) of the PCAA than that cited in Dr. Broschak's report (overgrooming and fleas on two of the cats). The Appellant's evidence that she wanted her 18-year-old dog to die at home and therefore tried to keep her comfortable is not an excuse. However, the Appellant admitted and acknowledged that this was a mistake and stated that it would never happen again. The Panel finds that the Appellant was sincere in her remorse and in her commitment to providing the Animals with ongoing veterinary care in future.

Injured, sick or in pain: The Panel again notes that the Appellant's attempt to manage Meeka's pain herself at home was the strongest example of a violation of Section 1(2) b of the PCAA. However, as noted, the Panel believes the Appellant was sincere when she asserted that she will not do the same in the future. With respect to the cat with a broken tooth – cited as the violation under this Section of the PCAA by Dr. Broschak - the Panel accepts the Appellant's evidence that she

was unaware that this cat was in pain. As Dr. Broschak acknowledged, animals hide pain, so it can be difficult for pet owners to identify that an animal is in pain, particularly oral pain in a cat since they do not easily allow for oral inspection.

Abused or neglected: With respect to the urine staining on Willow's hindquarters noted in the Society's evidence at the time of seizure, the Panel notes that the Animals had been alone in the home for four days and Willow was found lying next to the body of Meeka who had only recently died. The urine staining could have resulted from Willow's proximity to Meeka, and generally likely arose as a result of the Appellant's absence which was unanticipated and not in itself evidence of abuse or neglect. Willow was described by Dr. Broschak as otherwise being in good condition.

100. The Society's initial concerns over Meeka's death were exacerbated by the information provided by the Appellant's daughter and her spouse that there had been a number of recent animal deaths on the Property. In the hearing, K.Z. testified that most pets under the Appellant's care either died from flea infestations or from falling into the clutter in the home. The evidence was that five pets died while in the Appellant's care over the past eight years, however no evidence was presented with respect to the causes of death. As such, the Panel cannot find that the deaths were caused by fleas or clutter as there could be any number of other causes that led or contributed to the deaths of the animals. The Panel notes that the relationship between the Appellant and her daughter is marked by animosity which invariably affects the weight that can be attributed to uncorroborated evidence.
101. The Panel notes that the photos submitted in evidence depict a build-up of cat feces, not dog feces. Excluding the time when she was confined to the home from February 2 to 6, 2025, there is no evidence to suggest that Willow was a contributor to the unsanitary conditions in the home. The evidence suggests that the problem arose because of the Appellant's inability to manage ten cats that had developed a habit of urinating and defecating wherever they wished in the home over the course of a year or more. The clutter made maintaining sanitary conditions all the more challenging.
102. The Panel finds it is in the interest of Willow the dog to be returned to the Appellant. The Appellant has expressed remorse and taken full responsibility for the conditions the Animals were in at time of seizure, and the Appellant has taken steps to remove the conditions of distress, including vowing to "do things differently" in future. While the Appellant had obvious difficulty looking after the ten cats and two dogs, the Panel is confident that the Appellant has the skills and capacity to look after Willow, who was in "ideal" shape when taken into care by the Society. The Appellant is the only owner the dog has known, and Willow will be better off in familiar surroundings with the person to whom she has provided (and from whom she has drawn) emotional support all her life.

103. The Panel finds it is in the interest of all Animals that the four cats remain in the care of the Society, hopefully to be rehomed. The Panel is concerned that, if returned, the Appellant may be challenged to persuade these four cats to change their long-held practice of using her home as their litterbox, contributing to a reoccurrence of the unsanitary conditions that led to their distress and putting Willow once more at risk. The Panel is further concerned that the estimated dental care costs of roughly \$2,000 for two of the four cats (Angel and Yoda), and the potential veterinary care for the two cats that have heart murmurs (Angel and Sweetie) could create a significant financial challenge for the Appellant should they be returned.

K. Costs

104. Section 20 of the PCAA states:

20 (1) The owner of an animal taken into custody or destroyed under this Act is liable to the society for the reasonable costs incurred by the society under this Act with respect to the animal.

(2) The society may require the owner to pay all or part of the costs, with or without conditions, for which he or she is liable under subsection (1) before returning the animal.

(3) Subject to subsection (4), the society may retain the proceeds of a sale or other disposition of an animal under section 17 or 18.

(4) If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within six 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.

105. 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)”.

106. The Society is seeking costs as follows:

(a) Veterinary costs:	\$5,062.73
(b) SPCA time attending to removal:	\$1,629.71
(c) Housing, feeding and caring for the Animals:	<u>\$6,000.50</u>
(d) Total:	\$12,692.94

107. In *BC Society for the Prevention of Cruelty to Animals v. British Columbia (Farm Industry Review Board)*, 2013 BCSC 2331, the court considered the costs provisions of the PCAA and BCFIRB’s discretion to vary costs assessed by the Society. At paragraph (67) the court held:

[67] By section 20.3(1)(d), one of the matters which an owner may appeal to the FIRB is “the amount of costs that an owner must pay under section 20(2) before the animal is returned to the owner”. By section 20.6(c), the board may confirm or vary the amount that “the owner must pay under section 20(2)”. Clearly, then, the FIRB has jurisdiction to deal with that issue. With respect to the amount that must be paid before the animals are returned, that would presumably include varying the number to zero...

108. The court further noted at paragraph (68) with respect to the ability of BCFIRB to return an animal prior to the payment of any costs to the Society as follows:

[68] Given the statutory provisions, I am satisfied that it was reasonable for the FIRB to conclude that it had the jurisdiction to make an order returning the dogs that was not conditional upon the owner first paying the costs for which he remained liable. It was, I find, open to the FIRB to conclude that such jurisdiction is not dependent upon an existing order of the SPCA under section 20(2) being the subject of the appeal, but is included in the FIRB’s remedial authority under section 20.6(a) to order the return of an animal contrary to the SPCA’s disposition.

109. In *J.K. v. British Columbia Society for the Prevention of Cruelty to Animals*, April 21, 2016 (J.K.), the Panel explained the reasons why BCFIRB might return an animal prior to the payment to the Society of costs at paragraph (150) as follows:

... a decision to order that costs must be paid by an otherwise successful Appellant as a precondition of the Society returning an animal is a great step beyond ordering, as I have done, that the Society is entitled to its reasonable costs and may take all steps legally available to it to collect those costs. Where, as here, I have determined that it is in the animal’s best interests to be returned to its owner, considerable caution is, in my view, in order before deciding that the animal could shortly thereafter be deprived of that best interests placement, and placed in the Society’s custody to dispose of as it wishes, based solely on non-payment of a financial debt by a particular deadline or schedule. In my view, despite the Society’s concerns about any potential difficulties it may face in enforcing its legal rights, I am not prepared to issue an order in this case that would make the dog’s best interests secondary to the Appellant’s timely payment of his debt. In my view, this is a case where the appropriate order is one requiring immediate return of the dog, and as confirming the Society’s entitlement to its reasonable costs, which entitlement it may enforce with all the legal tools at its disposal.

110. Previous panels have varied costs for a variety of reasons, including instances in which an animal is ultimately returned to its owner and where the costs claimed by the Society are found to be unreasonable in the circumstances.

111. In this case the Panel finds as follows with respect to the costs claimed by the Society:

- Of the total veterinary and care costs claimed by the Society, 52% (\$6,542.42) relate to the animals that are the subject of this appeal, 36% (\$4,520.81) relate to the surrendered animals and 13% (\$1,629.71) relate to staff time to execute the Warrant.

- Regarding the submission of costs for staff time, the seizure of the 10 cats and one dog took 1.5 hours for five persons to complete (7.5 staff hours totalling \$205.43). To this, an additional \$1,424.28 in travel time (52 hours) was added for staff to attend the Clearwater seizure. The Panel was provided no explanation by the Society as to why this many staff were required to travel such long distances to execute this warrant, particularly given that the number of animals was known ahead of time, as was the fact that no one would be at home during the execution of the warrant. Lacking further information from the Society, the Panel questions the inclusion of travel costs associated with the normal work of the Society as stated in their mandate. The Panel notes that the issue of reasonableness of seizure costs has been dealt with by other panels in similar circumstances (See *Lepper v. BCSPCA*, September 9, 2024).
- Every Appeal is unique, and context is important. The Society became involved as a result of the unexpected hospitalization of both the Appellant and her mother, one day apart. With the exception of the dog Meeka who died while unattended (after the Appellant was hospitalized and before the Society attended), the animals were in overall good condition on seizure. Throughout this proceeding, the Appellant was polite, contrite and accepted full responsibility for the condition of her home. She also has taken steps to remove the conditions that caused distress. The Panel is mindful of the Society's non-profit status and the cost burdens associated with protecting animals in the Province. However, the Panel also needs to balance the best interests of the animal being returned to the Appellant and the impact that a costs award will have on the Appellant's ability to meet that animal's needs.
- The Panel varies the Society's costs as follows:
 - (a) The costs associated with the surrendered animals in the total amount of \$4,520.81 are varied to zero. The Appellant made the appropriate determination with respect to these animals early in the process, and as noted herein, the Society offered on multiple occasions to waive costs associated with surrendered animals.
 - (b) The costs associated with the attending for the seizure of the Animals will be varied to \$205.43 which represents the 7.5 hours associated with the seizure itself. The costs associated with travel were not supported by the evidence.
 - (c) The costs associated with the dog Willow will be varied to account for the time frame in which the Appellant could have reasonably had Willow returned to her care. On February 17, 2025 The Appellant reported to the Society that she had cleaned up 70% of her home. In her evidence she estimated that 95% of the feces had been removed by this time and the Panel believes her assessment. The costs of Willow's daily care (\$17.35 per day) were included until April 11, 2025 (59 days). The resulting reduction of \$919.55 will be made to the costs claimed.

(d) The Society will otherwise receive its costs as claimed. The total amount of those costs taking into account the reductions noted above is \$5,828.30.

112. As in the J.K. case noted above, the Panel finds it is in Willow's best interests to be returned to the Appellant, and as such that return should not be conditional upon the Appellant paying the costs owed to the Society as set out at paragraph (112) prior to the return occurring. The Society remains entitled to otherwise enforce the costs order with all the legal tools at its disposal.

L. Order

113. The Panel Orders as follows:

- (a) The dog, Willow, is to be returned to the Appellant by the Society.
- (b) The Appellant will pay costs to the Society in the amount of \$5,828.30.
- (c) The Appellant is not required to pay the costs set out at (b) prior to the return of Willow.
- (d) The four cats that are also the subject of this appeal are to remain with the Society in its discretion to destroy, sell or otherwise dispose of the Animals.

Dated at Victoria, British Columbia this 11th day of April, 2025.

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 with a large initial "W".

Wendy Holm, Presiding Member