

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
THREE CATS

BETWEEN:

MARTINA PEARSALL

APPELLANT

AND:

BRITISH COLUMBIA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

RESPONDENT

DECISION

APPEARANCES:

For the British Columbia Farm Industry
Review Board:

Jane Pritchard, Presiding Member

For the Appellant:

Martina Pearsall

For the Respondent:

Chris Rhone, Counsel

Date of Hearing:

July 21, 2025

Location of Hearing:

Teleconference

A. Overview

1. This is an appeal pursuant to s. 20.3 of the *Prevention of Cruelty to Animals Act, R.S.B.C. 1996, c. 372* (the PCAA) related to the seizure of three cats (the Animals) from the Appellant, Martina Pearsall, in Victoria, BC (the Property).
2. The Appellant is appealing the June 12, 2025, review decision issued under s. 20.2(4)(b) of the PCAA by Marcie Moriarty, Chief of Protection and Community Officer, 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, to sell or otherwise dispose of the animals. The Appellant in this case is seeking the return of the Animals.
4. On July 21, 2025, a BCFIRB hearing panel (the Panel) held a hearing via teleconference. The hearing was recorded.
5. The Appellant was not represented by counsel. The Appellant gave evidence on her own behalf and did not call any other witnesses.
6. The Society was represented by counsel and called 5 witnesses: Special Provincial Constable (SPC) Jacklyn Orza, K.S., L.S. K.B, and Doctor of Veterinary Medicine (DVM) Rachel MacLeod.

B. Decision Summary

7. The Animals were in distress at the time of seizure caused by unsanitary living conditions, poor ventilation, and a lack of care and veterinary attention. These conditions were clearly described in the testimony of the witnesses called by the Society and supported by the materials submitted as exhibits in this appeal.
8. The Animals are to be returned to the Appellant. The Appellant admitted the problems with respect to the health of the cats and their living conditions at the time of the seizure, and she has made effective changes to correct these problems such that the Animals will not be returning to a situation of distress. The return is conditional on the Appellant providing the Society with proof of an appointment with the Appellant's veterinarian for examination and thereafter undertaking any treatment as required for each of the Animals.

9. The Appellant is ordered to pay the veterinary services and care costs for the Animals incurred by the Society following their seizure. The Appellant is not required to pay for the costs for the care of the two dogs belonging to her son Blaine that were also seized by the Society. The total payable by the Appellant to the Society is \$5381.41.

C. Preliminary Matters

10. The Appellant sent an e-mail to BCFIRB staff on Friday, July 18, 2025 which included photographs of her new residence in Sooke, BC. The email and attachments were late submissions as they were provided outside of the timeframe otherwise set out in the Panel's initial process letter. BCFIRB forwarded the email and attachments to the Society the same day however the message was not received by the Society due to technical issues. The email and attachments were re-sent at the commencement of the hearing and time was provided for the Society to review both. After reviewing these late submissions, counsel for the Society accepted the materials and they were entered into the Exhibit Log as Exhibit #21.

D. Material Admitted on this Appeal

11. The Panel identified all the documents received by BCFIRB in advance of the hearing as exhibits. The record comprises Exhibits 1-21

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

12. The Society has seven files dating back to 2019 regarding complaints concerning dogs at the Property.
13. The files included a complaint made in April of 2024 concerning adult dogs and puppies. At that time SPC Orza attended the Property for an inspection. Prior to her attendance SPC Orza was informed by the Appellant that all of the dogs were the property of her son Blaine Pearsall ("Blaine"), but that the Appellant was the one that 'mostly has them'.
14. On April 24, 2025, the Society received a complaint regarding dogs at the Property and SPC Orza attended the Property on April 29, 2025. The complaint was the sixth complaint regarding the dogs at the Property made to that date in 2025. She was unable to access the Property to fully observe the dogs in the outdoor pens. SPC Orza posted a notice requesting the owners to contact her.
15. On May 1, 2025, SPC Orza received a call from Animal Control and was advised that the dogs at the Property were being kept in unsafe and unsanitary conditions. She was provided with email contact information for both the Appellant and her son Blaine and she emailed both parties to request an inspection on May 7, 2025, to ensure the dogs were not in distress. Blaine responded to the e-mail and refused to permit SPC Orza to attend the Property.

16. SPC Orza responded to Blaine and continued her attempts to arrange an inspection. However, Blaine refused to cooperate. Due to the number of complaints received in 2025, her observations on April 29, 2025, and the fact no officer had been able to view the animals and their living conditions at the Property since 2024, SPC Orza applied for and was granted a warrant.
17. The warrant was executed on May 7, 2025 by SPC Orza and another Society officer, with both RCMP and Animal Control officers attending in support. Neither the Appellant, nor her son Blaine, were home at the time. The Appellant's daughter was the only person at the Property.
18. SPC Orza determined that three dogs and three cats found on the Property were in distress and that removal was necessary. SPC Orza also left a Notice regarding two cats which the Appellant's daughter had identified as also living at the Property but which could not be found at the time of the seizure. The Notice directed the Appellant to immediately address the unsanitary and hazardous conditions in the home.
19. The Society's Notice of Disposition concerning the three dogs and three cats after the seizure dated May 7, 2025, was addressed to only Mr. Blaine Pearsall.
20. The Society's review decision letter of June 12, 2025, informed both the Appellant and Blaine, that the seized animals would not be returned.
21. A Chinese Crested Hairless dog named "Prince" belonging to the Appellant's daughter, was one of the three dogs seized from the Property. On May 23, 2024, the Society returned this dog to the Appellant's daughter with conditions.
22. The other two seized dogs were surrendered by the Appellant on June 22, 2025. The Appellant testified at the hearing that the dogs belonged to her son Blaine, but that she felt they should not be returned to him and therefore she decided to surrender the dogs to the Society.

F. Review Decision

23. On June 12, 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 Society's complete file for this matter and information contained within the Society's historical files.
24. Ms. Moriarty was satisfied, based on the evidence, that the provisions contained in Section 10 of the PCAA have been met and that the Animals came into the Society's custody in accordance with the Act.

25. Mr. Moriarty further determined that based on the unsanitary living conditions at the Property at the time of the seizure, the number of recent complaints and the Appellant's (and Blaine's) extensive history with the Society, the Animals could not be returned to the Appellant.

G. Key Facts and Evidence

26. In an appeal under the PCAA, the Panel must determine whether the Animals were in distress at the time of the seizure and if they should be returned to the Appellant. Below is a summary of the relevant evidence based on the parties' written submissions, submitted materials, and oral evidence presented during the hearing. Although the Panel has fully considered all of the evidence in this appeal, the Panel refers only to the evidence it considers necessary to explain its reasoning in this decision.

Appellant Testimony

27. The Appellant acknowledged that the yard where the dogs were kept was horrific, and that the residence was atrocious at the time of the seizure, however she did not believe that the cats were in distress.
28. The Appellant agreed that Luna (Cat #1) had a chronic skin condition that was related to her habit of choosing to spend prolonged periods of time sitting or lying down in a litter box. She stated that she did not notice that the condition had deteriorated and that she would normally regularly bath Luna and apply 'healing Vaseline' to the affected areas.
29. The Appellant stated that she missed Luna's deteriorating skin condition due to stress arising in the home environment and that her current circumstances no longer cause her similar stress. In particular she noted that she is now living in a smaller home and that her son (Blaine) is no longer around. She stated that she was aware that Luna had been losing teeth, but that she was not aware that Luna had a broken tooth at the time of seizure.
30. The Appellant stated that Olivia (Cat #2) had 'gurgly' breathing when she got her from a friend as an adult cat and that she had taken her to her veterinarian, Dr. Dyson to address the issue. She stated that the gurgling was on and off, but that Olivia had never been in distress and that she ate well. The Appellant commented that Olivia might have asthma and agreed (if returned) to take her back to her veterinarian, Dr. Dyson, to have her examined.
31. The Appellant stated that the sphynx cat Pikachu (Cat #3), came into her care from a friend as an adult cat at the same time as Olivia. The Appellant said Pikachu has always had dirty toes/nailbeds and ears and that she would normally have kept these areas clean. She agreed that Pikachu had not been maintained

properly at the time of the seizure but stated that Pickachu was otherwise in good health. The Appellant disagreed that Pikachu was overweight.

32. The Appellant did not dispute the description of her daughter's room (used food, sharp can lids, garbage). She noted that despite the condition of her daughter's room, the Society had returned her daughter's dog to her daughter, and that her room was not similarly unkempt.
33. The Appellant was asked about the two other cats her daughter had referred to at the time of the execution of the warrant. She stated that one of those cats (Lila) is currently with her living at her new residence. Lila is 6 or 7 years old. The Appellant stated that she has two conventional litter boxes for Lila which she cleans every 2 days. The other cat Sebastian, a Bengal, was hit by a car and died earlier in 2025.
34. The Appellant testified that she is not responsible for her son Blaine. She stated that he cannot come to where she now resides and that she doesn't care to see him. She stated that her new home is in good condition, and that it won't become problematic like the Property because she is no longer in a stressful personal situation.
35. As to ongoing veterinary expenses for the Animals, she indicated that her other son, Dustin, would help her with those costs.

Respondent Witnesses:

SPC Jacklyn Orza

36. SPC Orza has been an employee of the Society since 2019 and led the seizure on May 7, 2025, at the Property.
37. SPC Orza described the interior of the Property as significantly cluttered with passages through both floors of the home narrowed by clutter and piles of clothing. These obstacles posed a falling hazard for the cats and resulted in poor ventilation. SPC Orza also noted that there were high ammonia level readings in the second-floor hallway, stacked dirty litter boxes, bags of garbage, used pee pads and dog feces on the floor, poor lighting and sticky floors. In the kitchen there was a board with nails sticking out and, in the Appellant's daughter's room there was rotting food, mold, and sharp can lids. Overall, she described the home as unsafe and unsanitary for the Animals.
38. SPC Orza's statements were confirmed by the photographs of the Property at the time of seizure submitted by the Society and included as exhibits in this appeal.

K.S.

39. K.S. was the Appellant's neighbour until 2021. She continued to drive by the Property after relocating as her partner still lived on the same street as the Property. K.S. was more familiar with concerns over the dogs kept at the Property but also remembered that between 2011 and 2015 or 2016, Luna used to turn up at her home, in poor shape, hungry, and covered with fleas.
40. K.S. noted that when the Appellant would call for her, Luna always responded and went back to the Property.

L.S.

41. L.S. is a volunteer with the ROAM (Reuniting Owners with Animals Missing) organization. This organization is made up of volunteers that assist owners in finding their lost and missing pets. Much of this work is done through posting of pictures and messaging on social media.
42. L.S. verified the text messages that she received from Blaine which were included as exhibits in this appeal by the Society. These texts dealt primarily with reuniting Blaine with at least three of his dogs at different times.
43. L.S. also confirmed that at least twice, cats in the care of the Appellant had been reported missing, including Pikachu in February of 2025. L.S. indicated that the missing dogs were Blaine's but that if Blaine was hard to reach, they would try and contact the Appellant.

K.B.

44. K.B. attended the Property at the time of the execution of the warrant. He has been a bylaw officer with the Capital Regional District Bylaw and Animal Services since May 2022. In this position, he assists the RCMP and the Society with animal control and containment, as well as enforcing animal related bylaws such as leashing and barking complaints.
45. K.B. stated that he is familiar with Blaine as a result of Blaine's dogs being at large on several occasions. He noted that he had not previously had any dealings with the Appellant and that the seizure on May 7, 2025 was the first time he had entered the residence on the Property.
46. K.B. confirmed the conditions in the residence on the Property as described by SPC Orza and shown in the photos from the day of the seizure. He further confirmed the clutter, used pee pads, animal feces, garbage, narrow pathways, smell, and the Animals' access to rotting and spilled food. K.B. summarized the hazards to the Animals as the unsanitary conditions, the poor ventilation, and the

possibility of falling objects, though he stated that in general cats will jump up and over obstacles.

Dr. Rachel MacLeod (DVM)

47. Dr. MacLeod is a veterinary practitioner at the Elk Lake Veterinary Hospital and is licensed to practice in British Columbia with the College of Veterinarians of B.C. She was accepted by the Panel as an expert witness in veterinary medicine. Dr. MacLeod examined the Animals on May 9, 2025. She described the condition of each cat and summarized the test findings with reference to her notes which were in the Society's exhibits in this appeal.
48. Luna was described as being approximately 10 years old, weighing 5.5kg, and being overweight to an extent that might interfere with normal grooming. She was slightly dehydrated, had an old, healed injury to the right ear, and showed some clouding to both eyes that did not appear to be infectious. Luna had dental disease with tartar, missing teeth, a broken upper right canine, and required some dental extractions. Luna was weak while walking and had urine staining and scalding on her abdomen and hind end that was painful and required cleaning and topical treatment. Dr. MacLeod commented that being kept in unsanitary conditions would contribute to the severity of urine scalding. Luna was sedated and blood and urine collected for testing, which indicated that she had good health and organ function overall.
49. Olivia was described as being approximately 7 years old, weighing 4.08 kg., and in good health, with no dental disease and normal bloodwork and urine tests. Olivia had abnormal gurgling noises when breathing. Lung x-rays were taken, and no abnormalities were noted. The cause of the increased breathing noise was not determined and a treatment with an anti-inflammatory was dispensed to see if it would help.
50. Pikachu is a neutered male, hairless Sphynx cat. He was described as being approximately 10 years old, and weighing 6.06 kg. which was overweight. He had dirty ears with a dark discharge, dental disease which may require dental extractions due to extensive moderate to severe tartar and gingivitis, a minor discharge from his eyes. He also had a few scratches and very dirty nails and nail beds. Both of Pikachu's ears, as well as his nails and nailbeds required cleaning and treatment. Dr. MacLeod commented that Sphynx cats are prone to dirty ears and nails, and need special care to keep the ears, skin, and nailbeds clean and healthy.

H. Analysis and Decision

51. 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.

52. 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.

53. 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 surrender. 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.

54. With regards to the seizure of the Animals on May 7, 2025, the evidence presented in documents, photographs and testimony of the Respondent's witnesses (and acknowledged by the Appellant) all demonstrate that the living conditions in the residence at the Property were unsanitary and likely to cause distress in the Animals. The garbage, urine and feces, clutter, high ammonia levels, inadequate ventilation and lack of clean, safe litter boxes all contribute to the finding that the Animals were in distress at the time of seizure.

55. Dr. MacLeod's evidence that the Animals required treatment for urine scalding, dental issues, ear discharge, and that they lacked proper care and veterinary treatment further contributes to the finding that the Animals were in distress.

56. Given the above, and noting that the Appellant did not in fact contest the circumstances that led to the seizure, the Panel has no difficulty in finding that the Animals were in distress at the time of the seizure.

I. Return of the Animals

57. When considering whether to return animals to an appellant a panel needs to be confident that the return will not result in the animals falling back into distress. In making that determination a necessary consideration is whether the appellant has recognized and acknowledged the issues that led to the seizure of the animals in the first instance. Without that recognition the appellant is unlikely to make the changes necessary to improve the circumstances for the animals over the long term.
58. The Appellant in this appeal recognized and admitted that the living conditions for the Animals in the residence on the Property at the time of seizure were problematic to the point of causing the Animals to be in distress and she acknowledged her failure to provide adequate care for the Animals. She also demonstrated a credible willingness to take the Animals to her veterinarian to address the issues that were identified and to follow-up with any required further treatment.
59. The Appellant has changed residences. She testified as to her efforts to maintain a clean and tidy home and she submitted photographs that confirm those efforts. Her daughter is living with her, but she stated that she would make sure that her daughter's room stayed clean and tidy as well. The Appellant also indicated that her son, Blaine, will not be living with her at her new home.
60. Although the Appellant did not give details of the personal stress she was under prior to the seizure of the Animals, she testified that it contributed significantly to both the condition of the Property, and her failure to recognize and care for the Animals according to their needs. She testified that with her recent move to a new residence, she is no longer under the same stress.
61. The Appellant's evidence of her change in circumstances was both credible and compelling. Furthermore, the Appellant's acknowledgement of the conditions that led to the seizure and her willingness to take proactive steps to ensure that the Animals are returned to a healthy environment and that they have appropriate veterinary care, give the Panel confidence that if the Animals are returned to her care they won't fall back into distress.
62. The Panel finds that the Appellant has demonstrated that the Animals can and should be returned to her care. However, the return of the Animals will be conditional on the Appellant providing proof to the Society of a confirmed appointment with a veterinarian for the Animals.

J. Costs

63. Section 20 of the *PCAA* states:

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

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

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

(4) If the proceeds of a sale or other disposition exceed the costs referred to in subsection (1), the owner of the animal may, within 6 months of the date the animal was taken into custody, claim the balance from the society.

(5) Payment of costs under subsection (2) of this section does not prevent an appeal under section 20.3.

64. 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)”.

65. The Society is seeking costs as follows:

(a) Veterinary costs:	\$1,732.72
(b) SPCA time attending to removal:	\$164.34
(c) <u>Housing, feeding and caring for the animals:</u>	<u>\$5,115.25</u>
(d) Total:	\$7,012.31

66. On the matter of costs, the Society’s submissions provide detailed cost accounting, including invoices for veterinary care and detailed estimates on the daily operating costs associated with the care of the Animals. The calculation of these estimates has been reviewed and supported in previous appeals.

67. The Appellant did not dispute the charges claimed by the Society and did not indicate any inability to pay.

68. All of the parties, and the relevant witnesses, acknowledged that the Appellant is not the owner of the two dogs that were taken into care by the Society at the time of the seizure and for whom there are care costs listed. The *PCAA* does not allow the Society to charge costs to anyone other than the owner of the animal and so the charges for 47 days of care for each dog (Mazzie and Duke) at \$17.35 per day are to be removed for a total deduction of \$1630.90. The total remaining amount is

\$5381.41, and the Panel finds that those costs are properly payable by the Appellant to the Society.

K. Order

69. The Society is ordered to return the Animals (three cats) to the Appellant. Prior to the return, the Appellant must produce proof to the Society of a confirmed appointment with a veterinarian for the Animals. If the Appellant has not provided proof of a confirmed appointment with a veterinarian within 30 days of the date of this Order then the Society will be at liberty to apply to BCFIRB for further orders regarding the Animals including further costs;
70. The Appellant is ordered to pay the Society's costs in the amount of \$3,484.35. The Appellant must pay the Society's costs or have payment terms agreed to by the Society for the payment of costs prior to the return of the Animals. If the Appellant has not paid the Society's costs, or resolved payment terms for the payment of the Society's costs, within 30 days from the date of this Order then the Society will be at liberty to apply to BCFIRB for further orders regarding the Animals including further costs.

Dated at Victoria, British Columbia this 1st day of August, 2025.

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

Per:



Jane Pritchard, Presiding Member