



BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

APPEALS UNDER THE *PREVENTION OF CRUELTY TO ANIMALS ACT*

FREQUENTLY ASKED QUESTIONS

The BC Farm Industry Review Board (BCFIRB) is an administrative tribunal that will have responsibility to hear appeals from certain decisions of the BC Society for the Prevention of Cruelty to Animals (BC SPCA) under the *Prevention of Cruelty to Animals Act (PCAA)*.

BCFIRB will hear appeals about BC SPCA decisions to take custody of an animal, or to destroy, sell or otherwise dispose of an animal. These appeals can only be heard by BCFIRB after an internal review process by the BC SPCA itself. BCFIRB will also hear appeals about the amount of costs for which an owner is liable or must pay to the BC SPCA where an animal is taken into custody or humanely euthanized.

Like courts, administrative tribunals make decisions about disputes as part of a legal process. However, tribunals are designed to be less formal, less expensive and a more timely way of resolving disputes. Tribunal members who make decisions have special knowledge about the topic(s) they are asked to consider. As a tribunal, BCFIRB was designed so the public can have confidence that decisions are open, independent and impartial.

1. What is an appeal?

A person who disagrees with a particular animal custody/associated costs decision of the BC SPCA can ask BCFIRB to review that decision if the animal was taken from their custody or if they own or are an operator in relation to the animal. See '3. What can I file an appeal about?' for more information.

2. When does BCFIRB start hearing appeals of BC SPCA decisions?

BCFIRB will start hearing appeals once a regulation is passed by government which brings into force the new appeal section of the PCAA. This is anticipated to occur by the end of 2012. Please visit the BCFIRB web site at www.firb.gov.bc.ca for regular updates.

Once BCFIRB starts hearing appeals, the BC SPCA will provide information on their Form of Notice to animal owners as to their right to the appeal process.

3. What can I file an appeal about?

BCFIRB will hear appeals from the owner, operator or custodian of the animal(s) concerned in relation to the following decisions of the BC SPCA:

- a. decisions to take custody of an animal;*
- b. decisions to affirm notice that the BC SPCA will retain custody of an animal and either place it for adoption, sell or humanely euthanize;*
- c. the costs for which an owner, operator or custodian is liable; and/or the costs that an owner, operator or custodian must pay before the animal is returned to the owner.*

Note that before a person can file an appeal with BCFIRB regarding a or b above, a person must first request an internal review by the BC SPCA. If the BC SPCA does not conduct an internal review within a specified timeframe, or makes a decision that a person who can appeal is dissatisfied with, that person can appeal to BCFIRB.



4. What happens in the appeal process?

BCFIRB will be designing its appeal process in recognition that it will need to be timely and effective. BCFIRB will be offering the public an opportunity to comment on the appeal process in Fall 2012. Please visit our web site at www.bcfirb.gov.bc.ca for updates and information on the consultation. If you would like to be added to our email distribution list, please contact us at firb@gov.bc.ca.

5. BCFIRB is making a decision about my appeal, what can I expect?

When BCFIRB makes a decision about an appeal, the board can only do one or more of the following things:

- a. Require the BC SPCA to return the animal(s). BCFIRB can also set conditions for the return related to:
 - o Food, water, shelter, care or veterinary treatment*
 - o Any matter BCFIRB considers necessary to maintain the well-being of the animal(s)**
- b. Permit the BC SPCA, as the BC SPCA decides, to humanely euthanize, sell or adopt out the animal(s)*
- c. Confirm or vary the amount of costs for which the owner is liable or must pay.*

6. Does BCFIRB just hear appeals about farm animals?

No, BCFIRB will hear appeals about any animal taken into custody by the BC SPCA.

7. Following an BC SPCA seizure, I was charged under the Criminal Code. Can I file an appeal with BCFIRB?

You can only file an appeal with BCFIRB about the BC SPCA seizure under the PCAA (see ‘3. What can I file an appeal about?’). Charges under the Criminal Code must be addressed through the courts.

8. What if I don’t agree with BCFIRB’s decision about my appeal?

If you are dissatisfied with a BCFIRB appeal decision, you have the right to apply to the BC Supreme Court for judicial review. If you are not satisfied with BCFIRB’s practices and/or procedures you can also file a complaint with the Office of the Ombudsperson.

9. I don’t agree with how the BC SPCA operates overall. Can I complain to BCFIRB?

No. BCFIRB has only been given power under the PCAA to hear appeals on specific decisions of the BC SPCA (see ‘3. What can I file an appeal about?’). BCFIRB does not otherwise supervise the BC SPCA. If you have general concerns about how the BCBC SPCA operates, we recommend you contact the BC Ministry of Agriculture.

10. My neighbour is abusing their animal. Can I just file my complaint with BCFIRB?

No. If you have concerns about the care of an animal you should contact the BC SPCA, another animal welfare organization in BC or the RCMP/police. If you have a concern about wildlife that is not in captivity, you should contact the Ministry of Environment.



11. Since BCFIRB is already involved in farming, won't they make biased decisions when it comes to farm animals?

BCFIRB has a legal duty to make impartial decisions. The fact it performs different roles under different statutes does not affect this. Nothing in BCFIRB's other roles is inconsistent with impartial decision-making regarding whether an animal has been abandoned or is in distress. The fact that it has specialized knowledge regarding farm animals is expected to be a benefit, not a detriment, to conducting informed appeals about BC SPCA decisions regarding such animals.

Please contact the BCFIRB office at 250-356-8945 OR firb@gov.bc.ca if you have further questions regarding the PCAA and BCFIRB's role in animal welfare, or would like to be added to our email distribution list. You can also visit our website at www.firb.gov.bc.ca for more information.

For an excellent resource on administrative law and the operation of administrative tribunals in BC, visit the AdminLawBC.ca web page.