COURT OF APPEAL OF YUKON

Citation: *Angerer v. Cuthbert*,
2018 YKCA 8

Date: 20180525
Docket: 17-YU815

Between:

Stefan Ludwik Angerer, Ursula Angerer, Leopold Selinger, Edeltraud Selinger, Gerry McGraw and Stefan Landfried

Respondents
(Plaintiffs)

And

Shelley R. Cuthbert

Appellant
(Defendant)

Before: The Honourable Chief Justice Bauman
The Honourable Madam Justice Cooper
The Honourable Mr. Justice Fitch

On appeal from: An order of the Supreme Court of Yukon, dated October 11, 2017 (*Angerer v. Cuthbert*, 2017 YKSC 54, Whitehorse Registry File No. 16-A0132).

The Appellant appearing In Person:	S.R. Cuthbert
Counsel for the Respondent:	M. Hannam
Place and Date of Hearing:	Whitehorse, Yukon May 10, 2018
Place and Date of Judgment:	Vancouver, British Columbia May 25, 2018

Written Reasons by:
The Honourable Mr. Justice Fitch

Concurred in by:
The Honourable Chief Justice Bauman
The Honourable Madam Justice Cooper

Summary:

The appellant operates a dog rescue enterprise in a rural residential neighbourhood. At the time of trial, the appellant housed about 60 dogs on the property. The appellant's neighbours, the respondents on this appeal, brought an action in nuisance claiming that noise from dogs barking on the appellant's property constituted a substantial and non-trivial interference with their enjoyment of their properties that is unreasonable in all the circumstances. The appellant was self-represented at trial and on appeal. The judge applied Antrim Truck Centre Ltd. v. Ontario (Transportation), 2013 SCC 13, and found the appellant liable to several of her neighbours in nuisance. The appellant contends that the trial was unfair for a variety of reasons, some of them related to the alleged failure of the judge to provide her with the assistance she was entitled to receive as a self-represented litigant. She also submits that the judge erred by failing to give appropriate weight to evidence favourable to her case and that he erred in fact and in law in applying the test for private nuisance set out in Antrim Truck. Finally, she argues that the judge erred in granting a permanent injunction and erred by presiding over the trial in circumstances where doing so gave rise to reasonable apprehension of bias.

Held: appeal dismissed. While the appellant's wilful non-compliance with judicial orders would have justified a decision not to entertain the appeal, the Court exercised its discretion to hear the appeal on its merits in recognition of the fact that the public interest in this case extends beyond the appellant's interests to the welfare of the animals in her care. No merit was identified in any of the grounds raised by the appellant. The judge made no error in fact or in law in applying the test for public nuisance to the circumstances of this case. He fulfilled his responsibility to assist the appellant throughout the proceedings. The trial was procedurally and substantively fair. The judge did not err in exercising his discretion to grant a permanent injunction. The nuisance would not otherwise be abated. The appellant fell well short of meeting the test for a reasonable apprehension of bias.

Reasons for Judgment of the Honourable Mr. Justice Fitch:

I. Introduction

[1] The appellant, Shelley Cuthbert, operated a dog boarding business and continues to operate a dog rescue enterprise from her five-acre property located in the Tagish Estates subdivision which forms part of the unincorporated community of Tagish, Yukon. The number of dogs the appellant keeps on her property has fluctuated over time. In 2016, there were as many as 80 dogs on the property. At the time of trial, the appellant claimed to have about 60 dogs on the property. In 2016, the appellant's neighbours, the respondents on this appeal, commenced an action in nuisance grounded in their contention that incessant barking coming from the

appellant's property was a non-trivial interference with their use or enjoyment of land that was both substantial and unreasonable. They sought a declaration that the appellant's dog rescue enterprise constitutes a nuisance and an order enjoining her from keeping any animals on the property.

[2] In careful and detailed reasons for judgment delivered on October 11, 2017, and indexed as 2017 YKSC 54, the judge found that the appellant's dog rescue enterprise constitutes a nuisance. He granted an injunction enjoining the appellant from keeping more than two dogs on the property at any time. He ordered that the injunction take effect on February 11, 2018. Accordingly, the appellant was given approximately four months to comply with the order. The appeal is taken from this order.

II. Pre-Appeal Hearing Developments

[3] In oral reasons for judgment delivered on January 24, 2018, and indexed as 2018 YKCA 1, Justice Hunter granted a partial stay of the order pending the hearing of the appeal to permit the appellant additional time to address the nuisance by reducing the number of dogs on the property. He directed that commencing February 1, 2018, the appellant shall surrender ten dogs to the Yukon Government's Animal Health Unit on or before the 15th day of each month until such time as the number of dogs on the property is reduced to ten. As an additional term of the partial stay order, the appellant was enjoined from accepting any new dogs until she had fewer than ten dogs on the property.

[4] The appellant applied to discharge or vary the order of Hunter J.A. The application was dismissed by a division of this Court on April 9, 2018. The appellant was directed at that time to provide the respondents with receipts from the Animal Health Unit evidencing her compliance with the order of Hunter J.A.

[5] At the outset of the hearing of this appeal, the appellant candidly acknowledged that she has not complied with the terms of the partial stay order or with the further direction given to her by the division on April 9, 2018. It is apparent

that the appellant has no intention of complying with these orders which, she is convinced, will result in the euthanization of healthy dogs that may be difficult to place because of their dispositions and past behaviour.

III. Should the Court Hear and Dispose of this Appeal on its Merits?

[6] The Court would have been justified in refusing to hear this appeal on grounds that the appellant failed to comply with the terms of the partial stay order or the further direction given to her by the division on April 9, 2018. The policy animating the Court's discretion not to hear appeals in these circumstances is based on the concern that hearing an appeal and potentially granting relief to a party who has exhibited disdain for the judicial process may work to undermine the authority of the Court and bring the administration of justice into disrepute: *Larkin v. Glase*, 2009 BCCA 321 at paras. 30–31, 35. The circumstances in which an appellate court will exercise its discretion to hear the appeal of a litigant who has wilfully failed to comply with previous court orders are varied and will inevitably involve a context-specific assessment of what the interests of justice require.

[7] In the case at bar, we determined to exercise our discretion to hear and dispose of the appeal on its merits. We did so because the interests of justice engaged by this case encompass more than the appellant's business and personal interests. The determination of this appeal will also affect the welfare of dozens of animals she has taken into her care. The interests at stake and the strong emotions cases of this kind engender support the view that the public interest would best be served by determining this appeal on its merits.

IV. Factual Background

[8] There was an abundance of evidence before the trial judge, supported by video and audio-recordings, that the dogs kept on the appellant's property bark incessantly, by which I mean repeatedly, including in the wee hours of the morning, and that this has seriously affected the ability of the appellant's neighbours to use and enjoy their properties. One of the respondents testified at trial that the barking

was “pretty constant” and “just too much”. A neighbour called by the respondents at trial (who was not a plaintiff in the action) testified that the noise is “inescapable”, “unbearable” and “crazy making”. Another respondent described it as “nerve-racking” and “madness”, and said that the barking left him feeling “completely stressed out”. The judge rejected the appellant’s suggestion that the noise may have been coming from musher dogs on nearby properties.

[9] The appellant testified that she has attempted to remediate these problems, including by putting up fencing to minimize the visual triggers that prompt barking by the pack. She acknowledged, however, that any number of everyday events may cause the pack to bark including: motor vehicles driving along the road in front of her property; people walking in front of her property; children riding bicycles up and down the road in front of her property; her own arrival and departure to and from the property; neighbours approaching the fence while still on their property; at feeding times; and when wild animals are in the area.

[10] The appellant sought to defend the claim by adducing evidence that the barking was not constant. The judge observed that the appellant’s evidence “misses the point” because the respondents and the witnesses they called at trial acknowledged that “the dogs do stop barking at times, but then they start up again and it is the repetitive nature of the starting up again which gives rise to the nuisance and disturbs their ability to reside in relative comfort”. The appellant also sought to defend the action by arguing that she is unable to control the dogs when she is away from the property. Again, the judge found this to “miss the point”. He noted that it is the appellant herself who has created the situation which gives rise to the likelihood that her dogs will bark uncontrollably when she is not on the property.

V. The Reasons for Judgment

[11] The trial judge relied on the leading authority of *Antrim Truck Centre Ltd. v. Ontario (Transportation)*, 2013 SCC 13 at paras. 19 and 22–23, in determining whether the elements of private nuisance had been made out. He recognized that to

support a claim in private nuisance, the interference with the owner's use or enjoyment must be both substantial and unreasonable.

[12] On the first branch of the test, the judge concluded that the respondents suffered a substantial interference with the enjoyment of their respective properties as a result of barking by the appellant's dogs. He noted that some of the respondents testified about their sleep being disturbed by the barking and to a general loss of enjoyment of outside activities such as barbecuing, gardening and entertaining. He accepted that evidence. He concluded that the incessant barking would be unbearable to any reasonable person in the respondents' shoes given its duration.

[13] In determining whether the interference the respondents have experienced is unreasonable in all the circumstances, the judge addressed the social utility of the appellant's conduct, the severity, frequency and duration of the interference, the sensitivity of the respondents, the character of the neighbourhood and the carelessness of the appellant. He said this:

> [141] I will deal firstly with the utility of the defendant's conduct. Ms. Cuthbert has presented evidence that her dog rescue business has social utility within the Yukon, and perhaps even further afield. She takes dogs with behaviour problems who may be otherwise unsafe, and might otherwise have to be euthanized, and contains them within her property. Ideally, she is then able to rehabilitate the dogs and place them back into society with appropriate owners. This is particularly the case with the Carcross/Tagish First Nation, which views her service, as well as her dog catching contract, as essential to the safety of the community of Carcross.
>
> [142] However, the severity of the harm caused by the defendant and the social utility of the injurious activity are not equally weighted considerations [*Antrim Truck* at para. 30]. Ms. Cuthbert cannot justify the infliction of significant harm upon the plaintiffs simply by urging that there is a greater benefit to the public at large from her conduct [*Antrim Truck* at para. 30]. In balancing the gravity or significance of the harm against the utility of the defendant's conduct, this Court must answer the question whether, in all of the circumstances, the plaintiffs have shouldered a disproportionate and unreasonable share of the burden of the interference [*Antrim Truck* at para. 2].
>
> [143] In this case, it cannot be said that the harm being suffered by the plaintiffs is their fair share of the costs associated with Ms. Cuthbert providing a public benefit.

[144] Firstly, she is not a public authority providing an essential service such as an airport, a highway or a hospital. Rather, she is a private business person, who is operating a dog kennel for a profit. The plaintiffs receive no benefit from her business, but shoulder virtually all of the associated injurious effects. Even accepting that her business is essential to C/TFN, this does not justify the need to place 60 to 80 dogs on a relatively small parcel of land in the middle of a rural residential area. I find the degree of interference here is beyond the level where it can be reasonably expected that a few unfortunate residents, such as the plaintiffs, bear a disproportionate burden to facilitate the greater public good [citation omitted].

[145] I will deal next with the severity, frequency and duration of the interference. I am satisfied that the plaintiffs have established that the dog noise interferes with their most basic, everyday activities, and that it causes them significant anxiety. The dog noise is also repetitive, on virtually a daily basis, and often lasts for hours at a time, albeit with periods of relative quiet, as I described above.

[146] As for the sensitivity of the plaintiffs, there is no evidence that they are unduly sensitive to the dog noise…

[147] Turning to the character of the neighbourhood, there is uncontradicted evidence that this is a rural residential neighbourhood. Of the 67 lots in Tagish Estates, 32 lots contain full-time residents, 26 contain seasonal residents and nine are vacant lots. The standard of comfort to be expected in a predominantly residential area differs from that of an industrial or commercial one [*340909 Ontario Ltd. v. Huron Steel Products (Windsor) Ltd.* (1992), 9 O.R. (3d) 305 (Ont. C.A.) at p. 13]. The residential character of the neighbourhood is such that the interference from the dog noise is unreasonable.

[148] Lastly, I will address the carelessness of the defendant. Where the conduct of the defendant is found to be careless, that will be a significant factor in the reasonableness analysis [*Antrim Truck* at para. 29]. Here, I agree with the plaintiffs' counsel that Ms. Cuthbert appears to have been wilfully blind to the disturbance her business has caused to the neighbourhood. First, she made no attempt whatsoever to contact her immediately adjoining neighbours before starting up a business which might reasonably be expected to cause some noise issues. Second, although she was almost immediately aware that there was neighbourhood opposition to her business, and certainly would have been aware no later than the Yukon News article of September 26, 2012, she nevertheless continued to expand her operation significantly, obtaining as many as 80 dogs in 2016. Finally, she has repeatedly stated that her dogs bark in response to numerous ordinary stimuli. Indeed, she kept a log of such barking from June 29 to August 24, 2017 admitting that sometimes it takes at least half-an-hour to settle the dogs down. Nevertheless, she seems oblivious to the extent to which this is bothersome to her neighbours. Rather, she continuously focuses on the facts that: (1) it is natural for her dogs to bark; (2) she cannot control her dogs when she is not on her property; and (3) she has been victimized by harassment from her neighbours. Thus, I agree that her disregard for the neighbourhood's concerns is careless conduct that is relevant to considering the reasonableness of the interference.

> [149] In conclusion on this point, I am satisfied that the significant and non-trivial interference from the dog noise is also objectively unreasonable and that a nuisance has been established.

VI. Grounds of Appeal

[14] Against this background, the appellant, who was self-represented at trial and on appeal, advances numerous grounds of appeal. They are not easily summarized but include: (1) the trial was procedurally unfair for a variety of reasons, some of them related to the alleged failure of the judge to provide her with the assistance she was entitled to receive as a self-represented litigant; (2) the judge erred by improperly excluding or failing to give appropriate weight to evidence favourable to her case; (3) the judge erred in law and made palpable and overriding errors of fact in finding that the barking of the dogs constituted a nuisance; (4) the judge erred in exercising his discretion to grant a permanent injunction; and (5) the judge's determination to preside over the trial gave rise to a reasonable apprehension of bias given his involvement in previous litigation involving the appellant.

[15] As I understand it, the principal relief the appellant seeks is an order allowing the appeal, setting aside the order made in the trial court and directing a new trial before a different judge. The respondent seeks an order dismissing the appeal with costs. The respondent does not seek any ancillary relief.

VII. Analysis

[16] In my view, there is no merit to any of these grounds. This appeal does not pose a legal problem in need of a jurisprudential solution; it poses a pragmatic problem in need of a practical solution. Further, the solution, although it will inevitably be imperfect and emotionally wrenching for the appellant, must come soon. As the judge pointed out in his reasons, the respondents have experienced significant, non-trivial and repetitive interference with the enjoyment of their properties for over five years. As the summer months approach, it is reasonable to assume that the appellant's neighbours will increasingly seek to enjoy the outdoors.

Their ability to do so cannot continue to be so substantially impaired by the activities taking place on the appellant's property.

[17] I propose to deal briefly with each of the appellant's grounds of appeal. The appellant says the trial was procedurally unfair because, among other things, the respondents sought a new remedy when the trial commenced. This is not so. At trial, the respondents focussed on obtaining permanent injunctive relief rather than damages, but both were sought in the Statement of Claim. The appellant was on notice as to the alternative remedies being sought and cannot complain that she was taken by surprise on this account.

[18] Further, the appellant complains that she was given four months to abate the nuisance before the injunction came into force, which was not the relief sought in the Statement of Claim. The appellant cannot complain about being granted this indulgence.

[19] The judge did not, as the appellant suggests, deprive her of the opportunity to address the remedy to be granted if a nuisance was found. In any event, the appellant's testimony was that she had done all she could reasonably do to mitigate the impact of the barking on her neighbours. As the respondents point out, that position left her with no room to argue that the nuisance could be abated short of granting a permanent injunction.

[20] Finally, I do not accept the appellant's position that the judge failed to provide her, as a self-represented litigant, with the assistance she required during the course of the trial. First, the appellant acknowledged that a lawyer was helping her in the background during the trial. More importantly, the record reflects that the judge provided considerable procedural guidance to the appellant at a case management conference held about three weeks before the start of the trial. In the course of the trial, he intervened to provide the appellant with assistance on a number of legal and procedural points. Specifically, the judge helped the appellant formulate questions, enter exhibits and conduct re-examination. The appellant was given time to prepare and consider matters as the trial progressed. In addition, the appellant was given

latitude on issues going to the admissibility of some of the evidence she sought to tender. While the judge did intervene on occasion to redirect the appellant's attention to the key issues at trial, he was entitled to do so. His interventions were designed to and had the effect of ensuring that the appellant's defence of the action was brought out in full force. I see no error in the manner in which the judge determined to exercise his discretion in this case and cannot accede to the appellant's position that the trial was unfair.

[21] As to the second ground of appeal, the appellant complains that the trial judge erred by excluding or failing to give adequate weight to evidence favourable to her cause. She notes that the judge did not permit her to introduce two videos made by Mr. Selinger that captured periods of quiet in the neighbourhood. He made this ruling for a variety of reasons. Having not made the video, the appellant could not attest to its authenticity or provide evidence as to the context in which it was created. Second, the judge considered that admission of the evidence would violate the rule in *Brown v. Dunne* because the videos were not shown to Mr. Selinger on cross-examination. I am not convinced the judge erred on either point, but even if legitimate quarrel could be taken with the second rationale for excluding the evidence, the ruling had no material impact on the outcome of this trial. In fact, the evidence sought to be admitted had virtually no probative value. No one contested that the dogs were quiet for periods of time. Accordingly, the video, even if admitted, would have established nothing to assist the appellant in the litigation.

[22] The appellant also argues that even though the judge admitted, at her request, affidavit evidence from deponents who were not made available for cross-examination, he erred by suggesting that this was a factor that went to the weight he was prepared to give the evidence. The judge reviewed this evidence in his reasons:

> [127] There were 38 exhibits submitted in documentary form. I have reviewed them all. The majority of these exhibits were submitted by Ms. Cuthbert and many are several pages in length. These exhibits included several affidavits from witnesses supporting Ms. Cuthbert, which the plaintiffs' counsel consented to being admitted, notwithstanding that most of the witnesses were not subject to cross-examination. These exhibits also included 41 letters of reference supporting Ms. Cuthbert. The majority of the

> exhibits relate to Ms. Cuthbert's complaints about being harassed by community members and Ms. Cuthbert's attempts to establish that she has been duly diligent in attempting to mitigate the barking problem.

[23] It is apparent that the judge did have regard to this body of evidence. It is also apparent that this evidence had virtually no probative value on the central factual issue at trial. I do not see that the appellant was at all prejudiced by the manner in which the judge addressed this issue.

[24] Turning to the third ground of appeal, the judge correctly set out and applied the elements of private nuisance. Contrary to the appellant's assertion, he did consider the social utility of the appellant's enterprise in determining whether the substantial interference with the ability of the respondents to use and enjoy their properties was nonetheless reasonable. His factual findings are supported by the evidence. The appellant has not demonstrated that those findings are unreasonable or the product of palpable and overriding error. The judge properly concluded that the appellant had no defence to the nuisance finding. Specifically, there was no evidence that the nuisance complained of was caused by provocative acts taken by the respondents. While the appellant argued on appeal, as she did at trial, that third parties have engaged in conduct designed to incite the dogs to bark, she acknowledged that barking by the pack is triggered by *stimuli* common to a rural residential neighbourhood. This is precisely the point the judge was making in the passage excerpted at paragraph 13 of these reasons.

[25] There is no merit in the appellant's fourth ground of appeal that the judge erred by granting a permanent injunction. An injunction is a discretionary order that will not be interfered with on appeal unless the judge acted on a wrong principle or gave no or insufficient weight to relevant considerations: *Englehart v. Holt*, 2015 BCCA 517 at para. 24. The judge found that the nuisance would likely continue unless an injunction was granted. I do not see how he could possibly have come to a different conclusion on the facts he found. This being the case, damages were properly found to be an inadequate remedy.

[26] Contrary to the appellant's assertion, the judge was well aware of the impact the injunction would have on her business operation. The appellant's submission that the judge ought to have considered a less draconian remedy cannot be reconciled with her trial evidence that she had already taken all reasonable measures within her control to attempt to address the concerns of her neighbours. As the nuisance was found to have persisted despite the appellant's best efforts to mitigate the impact of the barking, it is difficult to imagine how the judge could have crafted a less draconian remedy and still provided the respondents with the relief to which they are entitled.

[27] Finally, there is no merit in the reasonable apprehension of bias claim. The argument rests on the fact that the judge had previously presided over a petition proceeding initiated by the Yukon Government (Registrar of Societies) seeking relief against the Humane Society Yukon and former members of its board of directors, including the appellant. Reasons for judgment in this matter are indexed as 2013 YKSC 8. At a case management hearing held on August 29, 2017, the judge reminded the parties of his involvement in this earlier litigation. The following exchange occurred:

> THE COURT: Before we go to too much further, there's something that's kind of troubling me and I wanted to put it on the record.
>
> I'm going to pass down a copy of a decision that I made following a hearing. It's titled "*Yukon Government (Registrar of Societies) v. Humane Society of Yukon*". It's a decision from 2013.
>
> And the reason I bring it up – you'll be familiar with that Ms. Cuthbert
>
> MS.CUTHBERT: Yeah.
>
> THE COURT: Although it was a hearing based on affidavit evidence and so on, there wasn't an actual trial.
>
> MS. CUTHBERT: Right.
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> THE COURT: I did make some passing comments about various actions and things you did and things you said in the course of my reasons. I didn't make any specific findings of credibility, but I just wanted to raise that in case you had any concerns about me continuing to – or if either of you had any concerns about me continuing to sit as the trial judge in the upcoming trial.
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> MS. CUTHBERT: I do have concerns about it … but I do feel that – I don't think your [sic] bias. I think that you will make a judgment based on the evidence provided.

> THE COURT: Okay.
>
> MR. LANG: And for my part, Your Honor, I won't raise any issues stemming from that.
>
> THE COURT: Okay. Thank you for that.
>
> I just wanted to give you an opportunity to respond.

[28] Contrary to the position she took in the trial court, the appellant says for the first time on appeal that the trial judge ought to have recused himself and that presiding over the trial gave rise to a reasonable apprehension of bias. She seeks to explain the position she took below by arguing that she was in fear of asking for a new judge.

[29] The test for establishing a reasonable apprehension of bias is a difficult one to meet. It asks this: what would an informed person, viewing the matter realistically and practically, and having thought the matter through, conclude? Would the person think that it is more likely than not that the decision-maker, whether consciously or unconsciously, would not decide fairly? This test was set out in *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 S.C.R. 369 at 394, per de Grandpré J., dissenting, and is often cited, including in *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25 at para. 20. The test is objective and the reasonable person must be informed not only of the circumstances of the case but also of the tradition of integrity and impartiality in our judicial system as reflected in the judicial oath: *D.M.M. v. T.B.M*., 2011 YKCA 8 at para. 37.

[30] In my view, the appellant has fallen far short of meeting the test for reasonable apprehension of bias. As this Court has made clear, an apprehension of bias does not inexorably flow from a judge's prior involvement in proceedings in which adverse rulings have been made against a litigant: *D.M.M.* at para. 39. The appellant raised no concerns about apprehension of bias on the case management hearing or at any subsequent point during the trial. She raises this issue only at the end of the trial having unsuccessfully defended the nuisance claim. Her contention that the judge's conduct of the trial and some of the rulings he made which I have

referred to earlier in these reasons gave rise to a reasonable apprehension of bias is without merit. The judge did interrupt and question the appellant in her closing submissions. He was entitled to do this to focus her submissions on the central points in the action. An informed and dispassionate observer could not possibly conclude that the judge's interventions displayed an apprehension of bias. Further, while the appellant complains that a newspaper article referencing the prior litigation was admitted at trial, it was the appellant who tendered this evidence in her cross-examination of Mr. Angerer. Finally, I cannot conclude that a reasonable and informed observer would think that the judge approached this case from a "one-sided" perspective. In fact, he accepted much of the appellant's evidence but concluded that it did not assist her in defending the claim.

VIII. Conclusion

[31] For the foregoing reasons, I would dismiss the appeal with costs to the respondents. I would also dispense with the requirement that Ms. Cuthbert approve the form of the order.

[32] As a consequence of the disposition I propose, the order made below stands and Ms. Cuthbert is obliged to immediately bring herself into compliance with the terms of that order, including paragraph 2 which reads as follows:

> The Defendant [Shelley R. Cuthbert], and any subsequent owner of the Property, shall be permitted to keep 2 dogs as personal pets on the Property, and that no more than 2 dogs shall be on the Property at any time, with same reasonably kept inside between the hours of 10 p.m. and 7 a.m.

[33] In closing, I return to the practical problem raised by this appeal. I have viewed many of the videos taken by the appellant of the dogs. They come in all shapes, sizes and breeds and appear to be healthy – reflecting, no doubt, the care they have received from the appellant. To be clear, no one wants to see any dog euthanized that is capable of being put up for adoption. It is to be hoped that the publication of this decision will encourage individuals seeking to adopt a rescue dog

to take immediate steps to contact the Yukon Government's Animal Health Unit or the Humane Society Yukon.

_____
The Honourable Mr. Justice Fitch

I AGREE:

_____
The Honourable Chief Justice Bauman

I AGREE:

_____
The Honourable Madam Justice Cooper