

## NY Court Slaps State in Public Information Case

New York's top court chided a state agency and warned others on Tuesday after what judges called a costly, unnecessary fight to withhold public records sought under the Freedom of Information Law.

The fight began in 2008 with a FOIL request by the Schenectady County Society for the Prevention of Cruelty to Animals. The group asked the state Education Department, which regulates many professional licenses, to provide a list of veterinarians in Schenectady County and their business addresses. The group sought to enlist veterinarians to help in a crisis plan for animals threatened in emergencies, such as flooding.

The state Education Department, represented by then-Attorney General Andrew Cuomo, refused to provide street addresses because some veterinarians submitted their home addresses for transactions involving their licenses. The department felt releasing home addresses would be an invasion of privacy and home addresses couldn't be sorted out by a computer for the roughly 72 veterinarians in the county.

But the court, in a rare rebuke, went further.

"We are at a loss to understand why this case has been litigated," the court stated in its decision. "It seems that an agency sensitive to its FOIL obligations could have furnished petitioner a redacted list with a few hours' effort, and at a negligible cost."

Instead, the case wended through three courts and 13 judges to reach four decisions.

"It is our hope that the department, and other agencies of government, will generally comply with their FOIL obligations in a more efficient way," the high court stated.

Now the SPCA's attorney, Mathew B. Tully, is billing the state for more than \$100,000 in attorney fees.

"It was the principle of it," Tully said in an interview. He has already offered to have the state pay for an animal control van and two humane law enforcement cars, in lieu of cash attorney fees.

"The Department's goal in this matter has always been the same — to protect the personal privacy rights of New York's licensed professionals," said Jonathan Burman, spokesman for the state Education Department. "We are naturally disappointed with the court's ruling, but we will — of course — comply with it."

Cuomo had no immediate comment. Attorney General Eric Schneiderman declined comment.

"They wasted everybody's time and resources," Tully said.

Winning attorney fees under the state Freedom of Information Law requires the government to have stuck to an unreasonable position. That may be a tougher argument than the Court of Appeals statement implies because lower courts were split over the issue.

