

Our View: State Must do Better with FOIL

When he was attorney general of this state, Gov. Andrew Cuomo was a strong advocate for open government. Among his greatest achievements in that area was his office's establishment of the Project Sunlight website, a terrific resource for gathering information about state agencies, the governor's office and the Legislature.

With Cuomo's commitment to transparency, we had high hopes that a Cuomo executive branch would result in a new attitude among state agencies with regard to public information. For too many administrations, New York state agencies have generally worked to keep information from the public.

Unfortunately, we haven't seen much evidence that this has changed. A decision issued this week by the state Court of Appeals is a good example of what's wrong.

In a case in Schenectady County, the state Department of Education refused to release the business addresses of licensed veterinarians in that county, saying that its records also had some private addresses that could not be released. But the organization seeking the information pointed out in its Freedom of Information Law request that all the education department needed to do was redact the private addresses while providing business addresses.

The state said it would not do so because its database included both private and business addresses. In other words, because it might take an hour or two of work, rather than a keystroke, the state would not do the work.

Keep in mind that people are employed in the public information offices of state agencies such as the education department to perform just that type of work.

They make a decent living in those state jobs, as well.

The Court of Appeals said the case was slam dunk — there's no way the education department can refuse to provide a redacted list.

We were particularly interested in what the court, the state's highest, wrote at the end of the decision:

"We are at a loss to understand why this case has been litigated. It seems that an agency sensitive to its FOIL obligations could have furnished petitioner a redacted list with a few hours effort, and at negligible cost. Instead, lawyers for both sides have submitted briefs and argued the case in three courts, demanding the attention of 13 judges, generating four judicial opinions and resulting in a delay in disclosure of almost four years. It is our hope that the Department, and other agencies of government, will generally comply with their FOIL obligations in a more efficient way."

Maybe this case will be the impetus for some much-needed change.

