

## CAPITAL REGION

# SPCA prevails in court to request state lists of veterinarians

BY JUSTIN MASON

Gazette Reporter

New York's Department of Education will need to release the addresses of licensed professionals when compelled by a Freedom of Information request, according to a state Supreme Court ruling issued Thursday.

In a 3-2 decision, justices with the Appellate Division overturned a lower court ruling that allowed the Education Department to withhold the addresses of all licensed veterinarians and veterinary technicians in Schenectady County from the Society for the Prevention of Cruelty to Animals. The court's majority decided the Education Department could withhold addresses on a case-by-case basis because of privacy concerns, but could not apply a blanket determination on all of the information requested by the SPCA.

"In a situation nearly identical to this case, the [state] Committee on Open Government opined that if an agency was unsure whether the addresses it maintained were home or business addresses, the agency could not 'justify a denial of access based on its contention that some, but not all of the addresses, are home addresses,'" Justice William McCarthy wrote in the ruling. "Though that opinion is not binding, the committee's reasoning leads us to agree with its conclusion."

The ruling also found the Education Department couldn't review its list, contact each licensee and determine if any of the addresses would cause privacy concerns. By doing so, the Education Department would be creating a new public record, which would "contravene the purpose of FOIL."

The Education Department maintains a database containing licensing information for nearly 800,000 registered individuals working in 47 professions across the state, according to the ruling. These vocations include certified public accountants, dentists, doctors, nurses, psychologists, social workers and veterinarians, among others. Individuals are required to provide the Education Department with a mailing address where they can receive licensing information. Failing to do so can result in a finding of professional misconduct.

The SPCA chapter in Schenectady County had sought only the business

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**CONSTANTINE DESTEFANO**

SPCA attorney

addresses of local vets to develop a database for an emergency response plan. However, the Education Department's list of licensed professionals doesn't differentiate between business and residential addresses.

Some believe the court's reversal will have a far-reaching impact on how FOIL requests are handled throughout the state. Constantine DeStefano, the attorney who argued the case for the SPCA, said the decision means agencies responding to FOIL requests will need to individually address denials instead of offering a blanket rejection.

"They're going to have to specifically justify any information they want to withhold," he said. "This is a very big victory for the Freedom of Information Law."

A spokesman with the Education Department said the decision is being reviewed and declined to comment further. Lawyers from the state Attorney General's Office, which argued the case, did not return a call for comment.

Mathew Tully, the chief of the county's SPCA chapter, said the case may have broad implications on other FOIL requests. He said the court's "landmark" decision could affect thousands of people in their pursuit of information.

"From this day forward, agencies will be severely limited in what they can withhold from public disclosure," he said in a statement. "FOIL will forever be upheld and used in such circumstances similar to this one."

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