

It shouldn't take a lawyer, or a court, to see the obvious: that a publicly funded state authority blacking out more than 200 pages of requested public information — save a word or two — is a violation of the people's right to know.

It shouldn't take a lawyer, but it did, and a lawsuit, and six months of waiting for the Olympic Regional Development Authority to do what it should have done in the first place.

Now a state Supreme Court judge has ruled that ORDA incorrectly interpreted laws that govern medical privacy and must turn over five years of accident reports from Mt. Van Hoevenberg to the *Adirondack Explorer*, this time with only personal identifiers blacked out.

It shouldn't have had to come to this.

The *Explorer*, a nonprofit news organization, was forced to go to court to argue that ORDA's redactions were so excessive that they were illegal, and that they denied the people who use the Mt. Van Hoevenberg bobsled track the right to fully understand the nature of accidents and injuries that occurred there — that is, simply, so they might weigh if they should choose to slide.

The judge's decision is clear and right. It came about because of the decision by the *Explorer* that part of its mission is to fight for the public's right to see the information that belongs to them — whether it is withheld by ORDA or some other public agency with documents, emails, reports, or even meeting notes.

ORDA, which manages Lake Placid's Olympic facilities as well as ski centers at Gore Mountain and Belleayre, with a \$60 million budget, is a publicly funded entity and therefore must answer to taxpayers. That means information about what the authority is up to — including safety data such as injury reports — are subject to the state's Freedom of Information Law.

This isn't the first time ORDA has answered an *Adirondack Explorer* request for safety data with stacks of pages that are completely blacked-out. They did the same when reporter James Odatto asked for incident reports from an

attraction at Whiteface Mountain where skiers were invited to do ski jumps and tricks and land in a large airbag. What could go wrong? One skier broke his neck and was paralyzed, which the *Explorer* wrote about. It raised the simple question of what other injuries may have occurred at the attraction.

But ORDA refused to release information that the *Explorer* asked for. We didn't go to court that time, meaning the public remains in the dark about that reasonable question. But the second time we found ourselves looking at injury records completely distorted by black ink, it suggested a pattern. Taxpayers deserve better, and we decided to do something about it.

We're not alone in our frustration at this behavior. Earlier this year, an audit by the State Comptroller's office scolded ORDA for its lack of transparency and failure to provide information to the state's open data website.

This resistance to open government only raises questions about what the authority — or any other state agency that similarly withholds information — might have to hide.

Shortly after she took office, Gov. Kathy Hochul called for all state agencies to submit plans for transparency in their work by mid-October. That's a refreshing break from the behavior of her predecessor. The new governor understands an informed public is essential to maintain a necessary check on government. She calls it a step toward having people "believe in government again." This is a good place to start: operating in the open and not in secret. She has suggested agencies post information on their websites, participate in more public meetings and respond in a timelier way to Freedom of Information Law requests. All good news, assuming she sticks to it in the face of an upcoming election.

Of course, former Gov. Andrew Cuomo made a similar promise as he came into office in 2010. He even made a big show of removing cement barriers around the Capitol as a symbol of his promise to open government. But the pledge was quickly forgotten, and his administration became ever stingier with the release of information. The most notable example was the coverup of nursing home deaths during the early days of the COVID-19 pandemic.

Access to public information will always be critical to the *Adirondack Explorer's* journalistic mission. Right now, a reporter is waiting on fulfillment of

a more than year-old Freedom of Information Law request to the state Department of Transportation for a set of emails —which surely could be found by a quick search of an inbox. The most recent response from the agency said they still couldn't get around to the task due to a large number of requests right now. We'll see.

Perhaps a revision is in order to that agency's transparency plan before it gets to Gov. Hochul. Or perhaps it will learn a lesson from ORDA's experience withholding the Mt. Van Hoevenberg material, and let go of the public's information before it comes to that sort of a fight again.