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Reiburn v. New York City Department of Parks and Recreation

Supreme Court, Appellate Division, First Department, New York - April 30, 2019 - N.Y.S.3d - 2019 WL 1905554 - 2019 N.Y. Slip Op. 03295

Plaintiff filed petition for order that city department of parks and recreation produce an unredacted copy of report on park's historic resource and management and operations study.

The Supreme Court, New York County, granted petition. Petitioner appealed.

The Supreme Court, Appellate Division held that:

- Department failed to meet its burden to show that intra-agency materials exemption applied, and
- Trial court's failure to address petitioner's request for reasonable attorneys' fees required remittance.

City department of parks and recreation failed to meet its burden to show that intra-agency materials exemption applied, and thus order directing department to produce unredacted copy of report was appropriate, since department did not establish that it had retained studio for purposes of preparing report.

Trial court's failure to address petitioner's request for reasonable attorneys' fees, following petition for report from city department of parks and recreation under Freedom of Information Law (FOIL), required remittance for finding as to whether department had reasonable basis to deny access to unredacted copy of report, since court was required to award fees under FOIL when agency had no basis for denying access to material sought.