



# ALERT



THE BRIDGE FROM BIG FIRM EXPERIENCE TO SMALL FIRM PERSONAL ATTENTION

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## **Agency Has the Burden of Proving Exemption for FOIL Request**

The New York Court of Appeals held that the Freedom of Information Law carries the presumption of access to records. The Court held in *Matter of Data Tree, LLC v. Romaine* that the Suffolk County Clerk, which claimed the requested documents were exempt from disclosure, “carries the burden of demonstrating that the exemption applies to the FOIL request.” Municipalities and State Agencies can no longer merely claim an exemption and refuse to disclose records. This case clearly states that the Courts will place the burden on the agency to demonstrate any exemption, which the Court said should be “narrowly interpreted” actually applies.

A more detailed discussion of the case will be on our Blog after noon on January 7, 2008.

**For a discussion of various topics relating to zoning and municipal law please see our Blog at [www.newyorkzoningandmunicipallawblog.com](http://www.newyorkzoningandmunicipallawblog.com).**

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Silverberg Zalantis LLP  
Law Offices  
3 Barker Avenue, Suite 180  
White Plains, New York 10601  
Tel. (914) 682-0707  
Fax. (914) 682-0708  
[www.szlawfirm.net](http://www.szlawfirm.net)