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Town loses lawsuit seeking accounting from ambulance corps

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A decision dated March, 2005 struck a victory for not for profit ambulance services that contract with towns. *Town of New Windsor v. New Windsor Volunteer Ambulance Corps, Inc.* 16 A.D.3d 403, 791 N.Y.S.2d 159 (2nd Dept. 2005).

The Town of New Windsor sued the New Windsor Volunteer Ambulance Corps, Inc. The town sought a court order requiring the Corps to provide an accounting of its finances. The Corps is a not for profit corporation.

The Appellate Division upheld the dismissal of the lawsuit against the Corps. The court held that the town did not have a fiduciary relationship with the Corps, but instead had only a contractual relationship.

Since the town had a contractual relationship, the court held that the town had no right to an accounting of the ambulance service's books. Fiduciary relationships are rare between towns and not for profit ambulance services. In our experience, most not for profit ambulance services have contractual relationships with a contracting town. A fiduciary relationship would involve significant oversight and control by the town over the ambulance service.

In the future, ambulance services should be guided by this decision if they are not willing to provide towns with an accounting of their financial or other records. One reason an ambulance service might not want to release its financial records is because it would not want the town to lower a contract fee based upon the ambulance corps successful fundraising efforts. However, I note that any tax exempt corporation must file federal Form 990, which provides a categorized list of a corporation's income and expenses. This form is open to public inspection upon request.