4/26/91

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
HOLY NAME HOSPITAL, INC.	)	Docket No. II MWTA-90-0105
	)	
Respondent	)	

ORDER DENYING CONSOLIDATION

For the reasons stated in its motion of March 19, 1991, respondent here seeks to consolidate this action with the following matters:

IN THE MATTER OF HACKENSACK MEDICAL CENTER INC.	Docket No. II MWTA-90-0104
IN THE MATTER OF PASCACK VALLEY HOSPITAL ASSOCIATION, INC.	Docket No. II MWTA-91-0102
IN THE MATTER OF KENNEDY MEMORIAL HOSPITAL MEDICAL CENTER, INC.	Docket No. II MWTA-91-0101
IN THE MATTER OF ENGLEWOOD HOSPITAL	Docket No. II MWTA-91-0103

Counsel for complainant in the subject matter opposed the motion for the reasons stated in its opposition served April 19, 1991. Counsel for complainant In the Matter of Englewood Hospital also served its opposition on the same date.

At the outset, it is to be noted that this Administrative Law Judge (ALJ) has had assigned to him, and has jurisdiction over, the subject proceeding, Hackensack Medical Center, Inc., Docket No. II MWTA-90-0104 and Englewood Hospital, Docket No. II MWTA-91-0103. The other two matters are on the docket of Honorable Daniel M. Head. Accordingly, the undersigned ALJ will only address the three matters before him.

The Rules of Practice, 40 C.F.R., § 22.12(a), hereinafter Rule, provide, in pertinent part, as follows:

> (a) Consolidation. The Presiding Officer may . . . consolidate . . . where (1) There exist common parties or common questions of fact or law, (2) consolidation would expedite and simplify consideration of the issues, and consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

The facts and law, as reflected in the pleadings, are to be laid alongside the Rule, and a decision whether to consolidate or not rests with the informed discretion of the ALJ.

The argument for consolidation is not persuasive; the disadvantages associated with consolidation outweigh greatly any benefits perceived by respondent. Turning to the Rule, common parties do not exist and there is dissimilarity in the facts between the cases. Further, consolidation would not expedite or simplify consideration of the issues. Rather, it would result in delay, and foster a confused, tangled-mangled proceeding. To add to this exquisite difficulty, consolidation would adversely affect complainants.

IT IS ORDERED that respondent's motion for consolidation be **DENIED**.

Frank W. Vanderheyden
Administrative Law Judge

Dated: April 26, 1991

IN THE MATTER OF HOLY NAME HOSPITAL, INC., Respondent,
Docket No. II-MWTA-90-0105

Certificate of Service

I certify that the foregoing Order, dated 4-26-91, was sent this day in the following manner to the below addressees:

Original by Regular Mail to:

Ms. Karen Maples
Regional Hearing Clerk
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Copy by Regular Mail to:

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Dated: April 26, 1991