

ILLINOIS POLLUTION CONTROL BOARD

October 10, 1974

ENVIRONMENTAL PROTECTION AGENCY,)	
Complainant,)	
)	
v.)	PCB 74-261
)	
ESSANESS THEATRE CORPORATION,)	
an Illinois corporation,)	
Respondent.)	

Mr. Jeffrey S. Herden, attorney for Complainant.
Mr. Jules G. Cogan, attorney for Respondent.

INTERIM ORDER OF THE BOARD (by Dr. Odell)

Respondent moves to dismiss this Complaint on grounds that the improper party was named Respondent. We deny the motion. Complainant should amend its Complaint to indicate that Riverdale Drive-In, Inc., not its parent corporation, Essaness Theatres Corporation, is the real party in interest. During the hearing on September 3, 1974, Respondent stated that subject outdoor theatre "is owned and operated by Riverdale Drive-In, Inc." (Respondent's Exhibits 1 and 2) ...and that "Essaness Theatres Corporation is the parent corporation of Riverdale Drive-In, Inc." (R. 3), ..."a wholly owned subsidiary" (R. 8). Since Riverdale Drive-In, Inc. has notice of the nature of this enforcement action, it should be given notice of the rescheduled hearing date in this matter. Amendment of the Complaint can take place either before the hearing date or at the beginning of the hearing.

Motion is hereby denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10th day of October, 1974, by a vote of 5 to 0.


Christan L. Moffett