

1                                   BEFORE THE LAND USE BOARD OF APPEALS  
2                                   OF THE STATE OF OREGON  
3

4 CHARLES H. MARKHAM, JAUNITA       )  
5 WATSON, PAT HUNNELL, ALICE       )  
6 GLOSSOP and NORMAN CHRISTENSEN, )  
7                                    )  
8                    Petitioners,        )  
9                                    )

10            vs.                                    )

11                                    )  
12 COOS COUNTY,                                    )  
13                                    )  
14                    Respondent,                )  
15                                    )

16            and                                    )

17                                    )  
18 DEPARTMENT OF LAND CONSERVATION )  
19 AND DEVELOPMENT,                            )  
20                                    )  
21                    Intervenor-Respondent.        )

LUBA No. 96-048

FINAL OPINION  
AND ORDER

(MEMORANDUM OPINION)  
ORS 197.835(16)

22  
23  
24            Appeal from Coos County.

25  
26            Charles H. Markham, Bandon, filed the petition for  
27 review.

28  
29            No appearance by respondent.

30  
31            Celeste J. Doyle, Assistant Attorney General, Salem,  
32 filed the response brief on behalf of intervenor respondent.  
33 With her on the brief was Theodore R. Kulongoski, Attorney  
34 General, Thomas A. Balmer, Deputy Attorney General, and  
35 Virginia L. Linder, Solicitor General.

36  
37            LIVINGSTON, Chief Referee; GUSTAFSON, Referee; HANNA,  
38 Referee, participated in the decision.

39  
40                                   AFFIRMED                                   08/07/96

41  
42            You are entitled to judicial review of this Order.  
43 Judicial review is governed by the provisions of ORS  
44 197.850.

1 Opinion by Livingston.

2 **MOTION TO INTERVENE**

3 The Department of Land Conservation and Development  
4 (intervenor) moves to intervene on the side of the  
5 respondent. There is no opposition to the motion, and it is  
6 allowed.

7 **MOTION TO SUPPLEMENT RECORD**

8 Petitioner moves to supplement the record to add three  
9 documents: two letters and Coos County Ordinance 95-05-  
10 004PL. These documents were apparently not placed before  
11 the county decision makers during the proceedings below,  
12 prior to the close of the record, and therefore must not be  
13 included in the record. Terrace Lakes Homeowners Assoc. v.  
14 City of Salem, 29 Or LUBA 600, 601 (1995). However,  
15 although it is not part of the record, we take official  
16 notice of Ordinance 95-05-004PL, which is attached to  
17 petitioners' brief as exhibit A-1. See Ramsey v. City of  
18 Portland, 23 Or LUBA 291, 294, aff'd 115 Or App 20 (1992)  
19 (LUBA may take official notice of local government  
20 enactments under OEC 202(7)).

21 **DECISION**

22 Petitioners appeal a decision of the county board of  
23 commissioners made upon remand from this Board. See DLCD v.  
24 Coos County, 29 Or LUBA 415 (1995). For the reasons stated  
25 in intervenor's brief at pages 3 to 10, we affirm the  
26 county's decision.