

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

4	DAVID HOLLAND,	)	
5		)	LUBA No. 96-060
6	Petitioner,	)	
7		)	FINAL OPINION
8	vs.	)	AND ORDER
9		)	
10	CITY OF CANNON BEACH,	)	(MEMORANDUM OPINION)
11		)	ORS 197.835(16)
12	Respondent.	)	

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14  
15           Appeal from City of Cannon Beach.

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17           William C. Cox, Portland, filed the petition for review  
18 and argued on behalf of petitioner.

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20           Daniel Kearns, Portland, filed the response brief and  
21 argued on behalf of respondent. With him on the brief was  
22 William Canessa, Edward J. Sullivan and Preston Gates &  
23 Ellis.

24  
25           GUSTAFSON, Referee; LIVINGSTON, Chief Referee,  
26 participated in the decision.

27  
28                           AFFIRMED                           08/21/96

29  
30           You are entitled to judicial review of this Order.  
31 Judicial review is governed by the provisions of ORS  
32 197.850.

1 Opinion by Gustafson.

2 **MOTION TO STRIKE**

3 Intervenor-respondent (intervenor) moves to strike a  
4 1993 letter from the city attorney appended to petitioner's  
5 brief, on the basis that it was not made part of the local  
6 record in this case. Intervenor's motion is granted. While  
7 there are references to the substance of the challenged  
8 letter in the record, the letter itself is not in the  
9 record. To the extent petitioner thought the letter should  
10 have been included in the record before us, his recourse was  
11 to file a record objection. No record objection was filed.  
12 We cannot consider documents outside the record, and the  
13 record before us cannot be supplemented through an  
14 attachment to the petition for review.

15 **DECISION**

16 Petitioner appeals the city's denial of his partition  
17 request. Petitioner argues the ordinance upon which the  
18 city relied had been impliedly repealed, and therefore was  
19 not applicable to the subject application. Accordingly,  
20 petitioner argues that the basis upon which the city denied  
21 his partition was beyond the scope of the city's discretion,  
22 and that the city committed reversible error in relying upon  
23 an inapplicable ordinance.

24 The city determined the disputed ordinance had not been  
25 repealed, and was an applicable approval criterion for the  
26 challenged decision. The city's interpretation of the

1 applicability of its own ordinance provisions is entitled to  
2 significant deference. Its interpretation is not clearly  
3 wrong and we defer to it. ORS 197.829(1); Clark v. Jackson  
4 County 313 Or 508, 836 P2d 710 (1992). See also  
5 DeBardelaben v. Tillamook County, \_\_\_ Or App \_\_\_, \_\_\_ P2d  
6 \_\_\_ (July 31, 1996).

7 Petitioner has not established any basis upon which we  
8 may grant relief.

9 The city's decision is affirmed.