



1 determined by the arguments made in the assignments of error or responses to those assignments of  
2 error.

3         Petitioner appealed a city decision annexing two undeveloped parcels comprising  
4 approximately 109 acres into the city. Petitioner asserted two assignments of error. First, petitioner  
5 argued that due to the size of the annexation, the annexation constituted a “major boundary change”  
6 and that the city erred in treating the annexation as a “minor boundary change.” As we explained in  
7 our final opinion and order, however, the Metro Code specifically defines an annexation as a “minor  
8 boundary change” while the definition of “major boundary change” does not include annexations.  
9 *Cape v. City of Beaverton*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2204-010, April 27, 2004, slip op  
10 4-5). Given the unambiguous Metro Code definition of “major boundary change” and “minor  
11 boundary change,” we do not believe any reasonable attorney would argue that an annexation is a  
12 “major boundary change,” as the Metro Code defines that concept.

13         In petitioner’s second assignment of error he argues that some unspecified state law requires  
14 the city to hold a public hearing or otherwise provide an opportunity for public input if a citizen or  
15 public official from another local government requests such a hearing or opportunity. We explained  
16 that we had already answered that question in an earlier appeal involving petitioner. *Id.* at 5-6.  
17 Petitioner did not argue that our previous decision, which was affirmed by the court of appeals,  
18 should be overturned. In fact, petitioner did not even acknowledge our prior decision despite the  
19 fact that he was the petitioner in that appeal as well. Petitioner’s only addition to his previously  
20 rejected argument was the variation regarding another local government official’s request.  
21 Petitioner, however, offered no explanation or rationale for this argument. We do not see that any  
22 reasonable attorney would make such an argument based purely on unspecified “substantial rights.”

23         Petitioner’s entire legal argument for reversal or remand under the second assignment of  
24 error consists of one and a half pages with no legal analysis or citation of authority. At oral  
25 argument, petitioner similarly provided no legal argument or citation to authority. To the extent

1 petitioner made any legal points on appeal, we hold that no reasonable attorney would conclude that  
2 they possessed any legal merit.

3 The city's motion for attorney fees is granted.

4 Under ORS 197.830(15)(b), the requested attorney fees and expenses must be reasonable.  
5 The city submitted a statement of attorney fees and costs seeking \$453.62 in attorney fees and  
6 \$40.40 in expenses. The city spent 8.49 hours at an hourly rate of \$55.43. The requested amount  
7 is certainly reasonable. *See 6710 LLC v. City of Portland*, 41 Or LUBA 608, 611-12 (2002)  
8 (discussing reasonable hourly rates). The city's expenses consist of two copies of a 102-page  
9 record at twenty cents per page as is allowed by OAR 661-010-0075(1)(b)(B).

10 The city's motion for attorney fees and expenses in the amount of \$494.02 is granted. We  
11 will award the city petitioner's \$150 deposit for costs. Therefore, the total remaining award to be  
12 paid by petitioner to the city is \$344.02.

13 Dated this 9th day of June, 2004.

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Tod A. Bassham  
Board Member