



April 17, 2015

## BoCo FIRM to appeal

After consultation with our attorney, Madeline Meacham of Halpern Meacham, BoCo FIRM's Steering Committee voted unanimously to appeal Judge Dave Williams's decision to dismiss the subdivision paving lawsuit filed against Boulder County.

Having defeated two County taxing schemes, the Public Improvement District and the Local Improvement District, BoCo FIRM filed an Amended Complaint on February 9, 2015, that alleged the County's actions to neglect our roads were arbitrary and unreasonable. The suit alleged that the County's failure to fund maintenance of subdivision paved roads was contrary to law, and was not based on lack of funds, as the County had repeatedly claimed, but was based on the County's unwillingness to follow state law because the County had different priorities. The County did not address the merits of our claims, and instead argued that we did not have standing to sue the County for failure to fund maintenance of a subset of paved county roads.

The Court stated in its ruling on the County's Motion to Dismiss that the over 300 plaintiffs did not have standing to sue the county. In addition the Court wrote that we could not establish a contractual basis for the suit and as a result dismissed our mandamus claim.

### What we will appeal

BoCo FIRM attorney Madeline Meacham stated that "We are moving to file an appeal of the District Court's ruling with the Colorado Court of Appeals. We will appeal the Court's dismissal of our contract and mandamus claims as well as the Court's determination that we do not have standing to pursue this suit. If we prevail in the appeal, we will then have an opportunity to present to the Court the merits of our claims."

### Why we are appealing

The BoCo FIRM Steering Committee reiterated that the filing of the appeal is consistent with our goal from day one; to get the subdivision roads fixed without the need for new taxes. We firmly believe that the County has sufficient funding to maintain our roads without the need to cut other county services. The injury we have suffered has been due to over twenty years of neglect by the County. It is especially egregious to now require those who have watched their roads deteriorate and property values diminish to pay extra because of the County's irresponsible and ongoing neglect. Maintaining public roads, including subdivision roads, is a core government responsibility and is recognized as such by being a statutory requirement. BoCo FIRM is firmly resolved to represent the interests of county residents in this ongoing battle with the County's Board of Commissioners.

## **Our responsibility**

Finally, we strongly believe that if we do not pursue all legal options in this fight, we will abdicate our responsibilities as citizens. After all if a singled out class of offended taxpayers have no standing to address issues, what constraints are available to prevent elected officials from violating the laws, or to remedy such, regarding the misuse of taxpayer funds?

# **What else is BoCo FIRM doing on the paving issue?**

In addition to spearheading the fund raising and coordination of the lawsuit, BoCo FIRM is also actively involved in the following activities.

## **Keeping neighborhood HOAs informed**

BoCo FIRM representatives have been busy making presentations on the subdivision paving issue at HOA meetings throughout the county. If you would like to schedule a BoCo FIRM representative to speak at your HOA meeting, send an email to [info@BoCoFIRM.org](mailto:info@BoCoFIRM.org). We will be happy to schedule someone to attend your meeting.

## **Alleged fraud committed by the County Commissioners**

BoCo FIRM has submitted a letter to Governor Hickenlooper regarding alleged fraud committed by the County. The fraud allegation centers on Highway Users Tax Fund reports the County is required to submit to the state. The alleged fraud concerns the County claiming in the reports that they are maintaining subdivision roads while simultaneously telling the courts in our lawsuits that they aren't maintaining these roads. By filing allegedly false reports, the County has received tens of millions of dollars in state funds that they may not be entitled to receive. Our work with the state on this issue is ongoing.

## **Political options**

We are also beginning to examine what political options are available. If we choose to go this route, our goal would be to help elect Commissioners that would be committed to fixing our subdivision roads without new taxes. We would like to emphasize that as we are currently not a political committee prior to undertaking any political actions, we would need to restructure BoCo FIRM as an issue committee.

**Now is the time to help.  
Send in a donation today.**

People have told us over the past year and a half **"When you need more funding let us know."** The time is now. The appeal of the court's decision will be expensive as will a subsequent trial if we win the appeal. The more funds we raise the more we can spend on retaining forensic accountants, road experts and pay for all necessary legal costs.



Please keep in mind that BoCo FIRM has a proven track record of successfully using your donations. With your financial support we were able to defeat the PID at the ballot box and the LID in the courts. To date we have saved residents of Boulder County over \$56 million in taxes. Taxes that you would be paying today and for the next fifteen years if it wasn't for the efforts you have supported.

If you would like to make a contribution to help us in this effort, click on the following link. [Donate now](#) to donate using a credit card. You can also send a check made out to BoCo FIRM, PO Box 11275, Boulder, CO 80301. Thank you again for your support.

All of your donations go to cover the direct expenses of this effort. No one at BoCo FIRM receives any compensation.

Please forward this email to everyone you know by clicking on the link below.

Boulder County Fairness in Road Maintenance  
PO Box 11275  
Boulder, CO 80301

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