

Legal battle resumes over Boulder County's subdivision roads

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Updated: 12/29/2015 05:59:24 PM MST

TimesCall.com

Boulder County disagreed Tuesday with contentions that state statutes and legal precedents support a lawsuit demanding that county commissioners spend more on rehabilitating rural residential subdivision roads.

"This is a political dispute about competing demands on limited public resources," the Boulder County Attorney's Office said in a brief filed with the Colorado Court of Appeals.

Boulder County charged in its filing that the plaintiffs — more than 300 individuals and families owning subdivision properties in unincorporated parts of the county — "want to use the court system, rather than the ballot box" to force the commissioners "to ... divert public funds from other government projects and services to pay for costly road improvements."

The plaintiffs had argued that Boulder County violated state law by inadequately maintaining its subdivision roads — a statutory duty that the plaintiffs' attorney, Madeline Meacham, wrote "is clear."

Meacham said in her Nov. 24 filing that "while the commissioners have discretion in making budget decisions, that discretion is not absolute."

The homeowners are appealing a lower-court dismissal of their original Boulder District Court lawsuit, which sought to have the county ordered to budget more money to cover the estimated tens of millions it's expected to cost to rehabilitate about 150 miles of roads in more than 100 residential subdivisions.

On April 2, Senior Judge Dave Williams dismissed the suit, ruling that the plaintiffs didn't have the necessary legal standing to pursue the claims.

Williams had earlier ruled against the plaintiffs' contention that Boulder County had a contractual obligation to pay for rehabilitating the roads after accepting them into the county road network.

The plaintiffs asked the appellate court judges to overrule the district court's ruling and to send the case back to district court for further proceedings.

"If the county's obligation to maintain roads cannot be enforced by the property owners who use those roads for access, there is no enforcement mechanism" other than through the courts, the plaintiffs argued.

Boulder County commissioners countered in Tuesday's brief that "this is a political dispute that does not belong in the courts and undermines the separation of powers between the judiciary and legislative branches of government."

The plaintiffs have 21 days to reply to the county's filing.

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