



Missouri Court of Appeals
Southern District
Division One

HARVEY DUANE BARKER, Trustee under)
the Joint Revocable Trust Agreement of Harvey)
Duane Barker and Rose Marie Barker, dated)
December 15, 1993,)

and)

PAUL G. NAHON, Sr., and SHARON A.)
NAHON, Husband and Wife, FARRIS NAHON,)
Jr., and NANCY NAHON, Husband and Wife,)
and PAUL G. NAHON, Trustee under Paul G.)
Nahon Revocable Living Trust Agreement,)
dated December 4, 1969,)

Plaintiffs-Respondents,)

vs.)

CITY OF SPRINGFIELD,)

Defendant-Appellant.)

No. SD31004

Filed Nov. 8, 2011

**ON APPELLANT’S MOTION FOR REHEARING OR, IN THE ALTERNATIVE,
MOTION FOR REMAND**

Before Barney, J., Lynch, J., and Scott, J.

PER CURIAM. After the issuance of this Court’s opinion, City timely filed a Motion for Rehearing or, in the Alternative, Motion for Remand. In it, City now claims that the trial court’s legal conclusion in its judgment that the Barker Track and the Nahon Track were separate tracts, parcels, or lots before the enactment of City’s subdivision

regulations in 1956 violates the provisions of sections 137.185 and 442.380. Nothing in the record supports that City raised the issue of the applicability of either statute in the trial court or in its brief on appeal as required by Rule 84.13 of the Missouri Court Rules (2011). “Issues raised for the first time in a motion for rehearing will not be considered.” *Kinzenbaw v. Dir. of Revenue*, 62 S.W.3d 49, 54 n.9 (Mo. banc 2001); see *Whitaker v. City of Springfield*, 889 S.W.2d 869, 874 (Mo.App. 1994); *Masonic Temple Ass'n of St. Louis v. Farrar*, 422 S.W.2d 95, 113 (Mo.App. 1967). City’s Motion for Rehearing or, in the Alternative, Motion for Remand is denied.