FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AW/LVM/2024/0605**
Property	:	**117 Holland Road, Kensington, London W14 8AS**
Applicant	:	**Bharania Commercial Real Estate Ltd**
Respondent	:	**Anna Sanhedrin Wieczkowski**
Interested Parties	:	**(1) Veronica Senior (Flat A)** **(2) Kripa Desai (Flat B)** **(3) Woldtown Ltd (Flat D)** **(4) Katarina Vanda Csillagh (Flat E)** **(5) Estmanco (Holland Road) Ltd (landlord)**
Type of application	:	**Application to discharge management order**
Tribunal	:	**Judge Nicol** **Mr DI Jagger MRICS** **Mr C Piarroux**
Date and venue of Hearing	:	**8th May 2025** **10 Alfred Place, London WC1E 7LR**
Date of decision	:	**9th May 2025**

DECISION

The application to discharge the appointment of Ms Anna Sanhedrin Wieczkowski as Manager of the property at 117 Holland Road, Kensington, London W14 8AS is dismissed.

Relevant legal provisions are set out in the Appendix to this decision.

Reasons

1. The subject property is a terraced house converted into 5 flats. The Applicant is the lessee of Flat C. The Interested Parties are the lessees of

the other 4 flats, plus the freeholder, Estmanco (Holland Road) Ltd, also named in the lease for each flat as the Management Company.

2. On 19th April 2024, in accordance with section 24 of the Landlord and Tenant Act 1987, the Tribunal appointed the Respondent as Manager of the subject property for a period of 3 years on the terms of the Order attached to the reasoned decision.

3. Less than 7 months later, on 15th November 2024, the Applicant applied to discharge the Respondent's appointment. The application was heard on 8th May 2025. The attendees were:

- Mr Shekhar Bharania, director of the Applicant company
- Mr Sachin Gupta, the Applicant's proposed manager (see below)
- Ms Elizabeth Fisher, counsel for the Respondent
- The Respondent
- Ms Veronica Senior, lessee of Flat A
- Mr Vaaga Avakian.

4. The documents before the Tribunal consisted of:

- The application
- A 23-page bundle of documents which accompanied the application
- The Respondent's 9-page statement
- A 237-page bundle of documents which accompanied the Respondent's statement
- In accordance with section 47 of the Management Order, the Respondent's 12-month report dated 7th April 2025 on her activities as Manager to date
- A 125-page bundle containing the Applicant's Reply and further documents
- Skeleton arguments from both parties.

5. The Respondent had compiled a single bundle "stitching" the above documents together (other than the report dated 7th April 2025). Ms Fisher emailed a copy and everyone worked from that bundle during the hearing.

Applicant's Proposed Manager

6. In his application, the Applicant asked the Tribunal to appoint someone to replace Ms Wiecszkowski as the Manager under the Management Order. On 29th April 2025, Mr Bharania emailed to the Tribunal the CV of Mr Sachin Gupta who he knows as the manager of another property in his portfolio. Mr Gupta then attended the hearing.

7. However, the Applicant had not made any application to allow consideration of Mr Gupta. There had been no compliance with the Tribunal's Appointment of Manager Practice Statement. There was no management plan from Mr Gupta. Neither the Respondent nor the lessees had been given the opportunity to consider Mr Gupta's suitability

as Manager (Ms Fisher's skeleton argument expressed her understanding that no alternative manager was being proposed).

8. The Applicant's attempt to bring in an alternative manager at the last moment was simply too late and too under-prepared. The Tribunal did not hear from Mr Gupta or any submissions about an alternative manager.

9. The Applicant had a number of grounds for discharging the appointment of Ms Wiecszkowski and they are dealt with in turn below.

Failure to Maintain the Property

10. Since her appointment, the Respondent has, amongst other things and with the assistance of her firm, Brackenbury Property Management:

    a. Shared a Planned Maintenance Program with all the lessees.

    b. Drafted a service charge budget for the years 2024/2025 and 2025/26, including provision for reactive maintenance and a reserve fund for major planned maintenance.

    c. Issued demands for service charges in accordance with the budgets and requests for arrears to be settled in full so that she may have sufficient funds.

    d. Carried out a Fire Risk Assessment and implemented most of the recommendations. The outstanding recommendation from the FRA is the installation of a fire alarm system for which a Section 20 consultation has been run. The Respondent intends that the system will be installed once funds are in place.

    e. Arranged for the roof to be inspected by the surveyor who previously oversaw major works at the property and obtained the agreement of the contractor who resurfaced the roof to return and resurface it again under their warranty.

    f. Sought to carry out inspections of the doors to flats B, C, D and E but access has been very difficult to arrange. Another appointment was being scheduled for May.

11. The Applicant pointed to the roof as needing repair. Emails from Ms Csillagh, the lessee of the top flat and the most affected by penetrating damp, indicated that there had been a leak since March 2024 and she was most concerned about when it would be fixed. Mr Bharania asserted that the Respondent should have fixed the roof by now.

12. The fact that penetrating damp from the roof has not been resolved for over a year is concerning, although it has never troubled Mr Bharania enough for him to correspond with the Respondent about it. However, the Respondent has taken action and the problem nears resolution. The causes of delay do not appear to include any dilatory behaviour by the Respondent but do include:

a. The Respondent did not commence her appointment until 22nd April 2024.
b. The handover was problematic with little co-operation from the previous managing agents.
c. It is inevitable that a newly-appointed manager will take time to work out what needs doing and what should be prioritised and to collect funds for any necessary work.
d. One-fifth of the service charge payers, namely the Applicant, did not pay, leaving the Respondent short of funds and uncertain whether she would be able to pay any contractors.

13. The Tribunal challenged Mr Bharania about the Applicant's failure to pay the quarterly service charges in accordance with the lease. The Applicant has built up arrears of £4,704.68 and did not contribute anything other than a single payment of £400 on 31st January 2025. Mr Bharania refused to accept any responsibility for the position and put the entire blame on the Respondent for allegedly not negotiating a payment plan.

14. The fact is that the Applicant has no right to discharge their liabilities on any payment plan other than the one in the lease. The Respondent is entitled to demand payment in full and on time.

15. Mr Bharania made assertions that lessees generally don't have the funds to meet service charge demands such as the Applicant has received. This seemed self-serving. All the other lessees at this property have met their liabilities, as have the majority of lessees across the country. The Applicant did not provide any reason, let alone any evidence, to the Respondent or the Tribunal that they have any financial issues which would limit their ability to meet the liabilities they have voluntarily taken on. The Respondent is not obliged to co-operate with the Applicant's efforts to optimise their cash flow to the detriment of the property and other lessees.

16. In any event, the discussion in relation to a payment plan did not match Mr Bharania's description in which he alleged that the Respondent delayed and failed to engage with his reasonable efforts. The Respondent made a specific proposal by letter dated 9th December 2024. The Applicant did not make any specific counter-proposal until an email dated 7th March 2025 and that was for only £400 per month.

17. The Applicant's case is that the Respondent's management has been so poor, she should be replaced. The evidence on this issue suggests that the problem is the Applicant, not the Respondent. The Respondent's actions in relation to the roof have been adequate and in accordance with her responsibilities.

18. The Applicant also alleged that the Respondent has neglected the upkeep of common areas such as hallways, stairwells, and gardens. It should be remembered that this allegation came less than 7 months after the Respondent's appointment. Mr Bharania relied on photos which showed the exterior in need of decorative work due to historic neglect, clearly

over many years. He alleged that there had been significant deterioration during the time since the Respondent was appointed but he had no evidence of this, including a lack of any complaints. On the other hand, when pressed by the Tribunal, Mr Bharania accepted that the Respondent should not try to tackle everything at once, which would be expensive for the lessees, and that the fire system and the roof had higher priority.

19. As an additional matter, Mr Bharania complained that the Respondent had compromised fire safety at the property by removing all the fire extinguishers. It is the Tribunal's understanding that this is in line with current best practice so that residents focus on getting out of a burning building rather than putting their lives in danger by stopping and trying to tackle the blaze themselves using the fire extinguishers. In any event, the fire risk assessment commissioned by the Respondent recommended their removal. Mr Bharania asserted that this was wrong, at least unless and until the alarm system was in place, but he had no authority or evidence for this.

20. The Tribunal is satisfied that the Respondent has complied with her duties in relation to the maintenance of the property.

Improper Demand of Service Fees

21. As referred to above, the Respondent has issued demands based on her estimates. The Applicant accused the Respondent of a lack of transparency in her estimates but it is difficult to see what more she could have done. Mr Bharania clarified that he did not challenge the validity of the demands themselves but the fact that the Respondent did not negotiate a payment plan – as already considered above, the Tribunal is satisfied this is not true and that the failure to pay is the Applicant's responsibility and is not the Respondent's fault.

22. The Applicant objected to the fact that the emails chasing him for payment mentioned that enforcement action could include forfeiting the lease. They claimed that this constituted harassment. In fact, it would have been improper for the Respondent to fail to make the Applicant aware of the potential consequences of non-payment. The Respondent's actions do not come anywhere close to constituting harassment.

Neglect of Financial Duties and Poor Record-Keeping

23. Of all the Applicant's complaints, the one that the Respondent has failed to produce annual accounts made the least sense, having been made less than 7 months after the Respondent's appointment. Even as at the hearing, she had only just been in post for a year.

24. The Applicant also complained that the Respondent "has failed to … respond to tenant inquiries regarding financial matters or maintain adequate records of expenditures." What is being referred to here is Mr Bharania's email correspondence with the Respondent and her colleagues at her firm and their failure to produce invoices to support the

estimates. The Tribunal has read carefully the email correspondence and can find nothing in the Respondent's actions which are anything other than proper and professional. It was pointed out in that correspondence that, by their nature, estimates would not be supported by any invoices.

25. The Applicant also alleged that the Respondent failed to establish a sinking fund but it should have been obvious to them on the face of the estimates that this was incorrect. The only deficiency in this regard is that the Applicant has failed to make their contribution to it.

26. At the hearing, Mr Bharania expanded this allegation to one of bias and partiality. He had asked Brackenbury to tell him what each lessee had paid towards the service charges, in response to which Mr James Bell of Brackenbury Property Management, very properly, said this was personal information to which he was not entitled. Mr Bharania then sought to equate this refusal with the freedom with which the Respondent kept the other lessees informed by email about the progress of these proceedings, including the fact that the Applicant was relying on the lack of agreement on a payment plan.

27. The fact is that the two situations are not the same. The Respondent was doing no more than repeating information already available to all the lessees in the documentation put into the Tribunal by the Applicant. This is part of a wider allegation Mr Bharania made at the hearing that the Applicant was being "targeted". As the only non-payer and the only lessee accused of the matters referred to below in the next section, it is difficult to see what he would expect. Taking action against the one recalcitrant lessee is not picking on them.

Misinterpretation of Lease Terms and False Accusations

28. The other lessees have complained to the Respondent that the Applicant lets out his property on short-term rentals advertised on AirBnB and Booking.com, amongst other platforms. According to Ms Kripa Desai's witness statement (signed by all the other lessees) provided in these proceedings, these arrangements have resulted in frequent noise disturbances, littering and smoking in prohibited areas.

29. By email dated 9th May 2024, Mr Bell wrote to Mr Bharania,

> Please see the attached photos of rubbish which was left by the occupants of your flat in the forecourt of the building. This is not acceptable. If you do not arrange for this to be removed and cleaned in the next 48 hours, then we will make the necessary arrangements and all costs will be charged to you. We look forward to your confirmation that this has been resolved.
>
> We also note that you are renting your flat on short term lets, notably via AirBnB. This was discussed at the Tribunal hearing and duly noted as a breach of your lease terms. Please confirm by reply that this practice will have stopped within 6 weeks from

today. If it has not then we will have no choice but to refer this to a Solicitor to take the appropriate action for the breach.

30. Mr Bharania replied by email on the same day demanding evidence such as CCTV that the occupants of the Applicant's property had left the rubbish. In the Tribunal's opinion, this is disingenuous. Mr Bharania would be aware that there is no CCTV. There are only 5 flats so it would be fairly easy for the other lessees to identify the source of such rubbish. The complaints the Respondent received said that the complainant had personally seen the rubbish being dumped. Mr Bharania seemed to think that it would be inappropriate for a manager to act on such evidence unless and until it had been established by a court judgment, or at least to the standards required for a court judgment, but that is not remotely practical nor fair on those who suffer from such nuisance.

31. Mr Bharania also claimed that the Applicant has terminated the tenancy given to whomever was letting through AirBnB and the property is now rented out on a corporate let, although he had no evidence of this.

32. Mr Bell emailed back on 14th May 2024 with further details that a couple with a baby and a toddler were seen in occupation of the property and leaving rubbish with nappies in it and, on another occasion, 3 females and a male, also occupying the property, leaving a bag of rubbish outside. Mr Bell also set out clause 3(8) of the lease limiting the use of the property as a single private residence, which does not include short holiday lets, and clause 2(7)(E) which requires the Applicant "not without the prior written consent of the Lessor to underlet the whole of the Demised Premises".

33. Mr Bharania, after being chased for a response, emailed to say he was abroad and could not respond until June. Mr Bell then received a letter dated 3rd June 2024 from an unregulated legal firm, Philip Jones Legal, threatening urgent legal action for a "prohibitory injunction". In the Tribunal's opinion, the letter is pointlessly aggressive and unprofessional:

    a. The letter is addressed to Mr Bell personally when he is clearly acting as an employee of a firm which is acting on behalf of the Respondent.
    b. The letter refers to the firm, Brackenbury, as the Tribunal's appointee and the respondent to any legal action when the Tribunal appointed the Respondent, not Brackenbury. The fact that the Tribunal appoints an individual, not a firm, was made apparent in the Tribunal's original directions dated 8th January 2025 (of which the Applicant has a copy) as well as the decision itself.
    c. The letter asserts that Brackenbury have unilaterally decided that the Applicant is in breach of their lease. Quite apart from the fact that it is reasonably clear that the Applicant is in breach, not having produced any written consent for the lettings, Mr Bell did no more than say that, if the allegations were made out, the Applicant would be in breach. It is difficult to see how else he could have expressed himself.

d. The letter aggressively asserted a lack of evidence in relation to the rubbish, claiming them to be "wholly unfounded". The letter then repeats Mr Bell's evidence from his email of 14th May, i.e. that the occupants were seen leaving the rubbish, and calls them "baseless allegations". Again, it is difficult to see in the circumstances how the quality of evidence could be improved. It should have been apparent to any competent lawyer that the allegations were well-founded and not baseless.
e. The letter asserted that Brackenbury had misinterpreted the lease because, as the Management Company, the Applicant does not require permission from Estmanco (Holland Road) Ltd. It is obvious that it is Philip Jones Legal which has misinterpreted the lease. Permission is required from the Lessor and Estmanco is the successor-in-title to the original lessor.
f. The letter mentions that consent cannot be unreasonably withheld but this is irrelevant if consent has never been sought. The Applicant has not claimed at any time to have sought consent.
g. The letter alleges that another lessee, Ms Senior, is also the source of nuisance. Again, this is entirely irrelevant to whether the Applicant is in breach of their lease.
h. The letter asserts that short-term lets are allowed on the basis that clause 2(7)(B) of the lease prohibits lettings exceeding one year. This is another misinterpretation of the lease. Clause 2(7)(B) prohibits a long sub-lease. It is the provisions relied on by Mr Bell in his email correspondence which prohibit short-term or holiday lets. Even if they are not in breach of clause 3(8), it would be entirely reasonable for the lessor to withhold consent to such lets, given the higher risk of nuisance to which they give rise.
i. The letter then risibly suggests that Mr Bell's entirely proper correspondence would give rise to claims in damages totalling up to £45,000 (the cause of action is not specified) and an injunction to prevent the allegations being repeated, plus costs of up to £35,000 and interest.

34. Needless to say, the threatened legal action has not materialised.

35. Given the Applicant's unhelpful approach, the Respondent sought to raise these two issues again with the Applicant more formally by letter dated 15th July 2024. There has been no meaningful response so the Respondent has put the matter in the hands of solicitors.

36. The Tribunal is satisfied that the Respondent has neither misinterpreted the lease nor made false accusations. It is the Applicant's behaviour which may be subjected to criticism, not that of the Respondent.

Non-Adherence to the Tribunal's Management Order and the RICS Code

37. The Applicant asserted that the allegations considered above amounted to breaches by the Respondent of the Tribunal's Management Order and the RICS Code of Management. The Tribunal is satisfied, for the reasons already given, that they do not.

Relief

38. As well as seeking the discharge of the Respondent's appointment, the Applicant asked the Tribunal to appoint a new Manager "with a proven record of competence in property management". The Tribunal remains as satisfied as it was when making the original order that the Respondent has just such a record.

Conclusion

39. In the circumstances, the Tribunal has no option but to dismiss the application. There are no grounds to change the management order in any way and the Tribunal expects the Respondent to continue in her efforts to give the property the management it needs.

40. The Applicant would be well-advised to seek help from a competent solicitor, pay the service charges and co-operate in resolving the letting and nuisance issues.

Name: Judge Nicol **Date:** 9th May 2025

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix – relevant legislation

Landlord and Tenant Act 1987

Section 24

(1) The appropriate tribunal may, on an application for an order under this section, by order (whether interlocutory or final) appoint a manager to carry out in relation to any premises to which this Part applies--
(a) such functions in connection with the management of the premises, or
(b) such functions of a receiver,
or both, as the tribunal thinks fit.

(2) The appropriate tribunal may only make an order under this section in the following circumstances, namely–
(a) where the tribunal is satisfied–
(i) that any relevant person either is in breach of any obligation owed by him to the tenant under his tenancy and relating to the management of the premises in question or any part of them or (in the case of an obligation dependent on notice) would be in breach of any such obligation but for the fact that it has not been reasonably practicable for the tenant to give him the appropriate notice, and
(ii) . . .
(iii) that it is just and convenient to make the order in all the circumstances of the case;
(ab) where the tribunal is satisfied–
(i) that unreasonable service charges have been made, or are proposed or likely to be made, and
(ii) that it is just and convenient to make the order in all the circumstances of the case;
(aba) where the tribunal is satisfied–
(i) that unreasonable variable administration charges have been made, or are proposed or likely to be made, and
(ii) that it is just and convenient to make the order in all the circumstances of the case;
(abb) where the tribunal is satisfied–
(i) that there has been a failure to comply with a duty imposed by or by virtue of section 42 or 42A of this Act, and
(ii) that it is just and convenient to make the order in all the circumstances of the case;
(ac) where the tribunal is satisfied–
(i) that any relevant person has failed to comply with any relevant provision of a code of practice approved by the Secretary of State under section 87 of the Leasehold Reform, Housing and Urban Development Act 1993 (codes of management practice), and
(ii) that it is just and convenient to make the order in all the circumstances of the case;
or
(b) where the tribunal is satisfied that other circumstances exist which make it just and convenient for the order to be made.

(2ZA) In this section "relevant person" means a person–
(a) on whom a notice has been served under section 22, or

(b) in the case of whom the requirement to serve a notice under that section has been dispensed with by an order under subsection (3) of that section.

(2A) For the purposes of subsection (2)(ab) a service charge shall be taken to be unreasonable–

(a) if the amount is unreasonable having regard to the items for which it is payable,

(b) if the items for which it is payable are of an unnecessarily high standard, or

(c) if the items for which it is payable are of an insufficient standard with the result that additional service charges are or may be incurred.

In that provision and this subsection "service charge" means a service charge within the meaning of section 18(1) of the Landlord and Tenant Act 1985, other than one excluded from that section by section 27 of that Act (rent of dwelling registered and not entered as variable).

(2B) In subsection (2)(aba) "variable administration charge" has the meaning given by paragraph 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

(3) The premises in respect of which an order is made under this section may, if the tribunal thinks fit, be either more or less extensive than the premises specified in the application on which the order is made.

(4) An order under this section may make provision with respect to–

(a) such matters relating to the exercise by the manager of his functions under the order, and

(b) such incidental or ancillary matters,

as the tribunal thinks fit; and, on any subsequent application made for the purpose by the manager, the tribunal may give him directions with respect to any such matters.

(5) Without prejudice to the generality of subsection (4), an order under this section may provide–

(a) for rights and liabilities arising under contracts to which the manager is not a party to become rights and liabilities of the manager;

(b) for the manager to be entitled to prosecute claims in respect of causes of action (whether contractual or tortious) accruing before or after the date of his appointment;

(c) for remuneration to be paid to the manager by any relevant person, or by the tenants of the premises in respect of which the order is made or by all or any of those persons;

(d) for the manager's functions to be exercisable by him (subject to subsection (9)) either during a specified period or without limit of time.

(6) Any such order may be granted subject to such conditions as the tribunal thinks fit, and in particular its operation may be suspended on terms fixed by the tribunal.

(7) In a case where an application for an order under this section was preceded by the service of a notice under section 22, the tribunal may, if it thinks fit, make such an order notwithstanding–

(a) that any period specified in the notice in pursuance of subsection (2)(d) of that section was not a reasonable period, or

(b) that the notice failed in any other respect to comply with any requirement contained in subsection (2) of that section or in any regulations applying to the notice under section 54(3).

(8) The Land Charges Act 1972 and the Land Registration Act 2002 shall apply in relation to an order made under this section as they apply in relation to an order appointing a receiver or sequestrator of land.

(9) The appropriate tribunal may, on the application of any person interested, vary or discharge (whether conditionally or unconditionally) an order made under this section; and if the order has been protected by an entry registered under the Land Charges Act 1972 or the Land Registration Act 2002, the tribunal may by order direct that the entry shall be cancelled.

(9A) The tribunal shall not vary or discharge an order under subsection (9) on the application of any relevant person unless it is satisfied–

(a) that the variation or discharge of the order will not result in a recurrence of the circumstances which led to the order being made, and

(b) that it is just and convenient in all the circumstances of the case to vary or discharge the order.

(10) An order made under this section shall not be discharged by the appropriate tribunal by reason only that, by virtue of section 21(3), the premises in respect of which the order was made have ceased to be premises to which this Part applies.

(11) References in this Part to the management of any premises include references to the repair, maintenance, improvement or insurance of those premises.