FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AG/LRM/2025/035**
Property	**:**	**349 West End Lane, London NW6 1 LT**
Applicant	**:**	**349A WEL RTM Company Limited**
Representative	**:**	**The Leasehold Advice Centre** ***Ref: Philip Bazin***
Respondents	**:**	**(1) Stuart Barry Katz & Jacqueline Eleanor Katz as Trustees of the S Katz Pension Scheme** **(2) Assethold Limited**
Representative	**:**	**(1) Hayley Katz, Solicitor** **(2) Eagerstates Limited**
Type of application	**:**	**No Fault Right to Manage**
Tribunal	**:**	**Judge Tagliavini**
Date of Decision	**:**	**25 March 2026**

DECISION

The tribunal's summary decision

(1) The tribunal finds the applicant is entitled to acquire the right to manage the premises at 349 West End Lane, London NW6 1 LT with effect from three months after the date of this decision becomes final i.e. three months from the date when the period for appeal ends or when any appeal (if made) is disposed of.

The application

1. This is an application under section 84(3) of the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act') for a decision that, on the relevant date, the applicant RTM company was entitled to acquire the Right to Manage premises known as **349 West End Lane London NW6 1LT ('the premises').** The first respondent is the freeholder of the premises. The second respondent is the superior leaseholder out of which the two residential of Flats A and B have been granted.

Background

2. The subject premises comprise a converted block of two self-contained apartments sold on long leases, over a small commercial unit said by the applicant to make up less than 50% of the freehold.

3. By a claim notice dated 26 August 2025, the applicant gave notice to the first and second respondents that it intended to acquire on 8 January 2026, the Right to *Manage 'the premises known as the singular building or part of a building known as 349 West End Lane, London NW6 1LT together with any appurtenant property (if any) and the infra adjacent commercial premises(if any)" …*

4. By counter notice dated 29 September 2025 the first respondent disputed the claim alleging that the applicant has failed to establish compliance with section 72 of the 2002 Act and stated:

> ***1. (a) Excessive non-residential floor space***
> • *The premises do not satisfy the conditions of section 72(1)(b) of the 2002 Act.*
> • *More than 25% of the internal floor area (excluding common parts) is occupied for non-residential use, namely the ground and basement commercial unit let to comprising approximately 107m2 (1,129 sq ft).*
> • *The two residential flats above amount to approximately 136 m2 (1 ,464 sq ft) in total. • Accordingly, the commercial element is approximately 44% of the internal floor area, exceeding the statutory threshold; and*
>
> ***2. (b) Premises not a self-contained building***
> • *The building is terraced and not structurally detached.*

- *It shares essential structure and/or services with the adjoining properties and is not capable of being redeveloped independently within the meaning of section 72(2) of the 2002 Act.*
- *Therefore, the premises do not qualify for the right to manage.*

5. No counter-notice was served by or received from or on half of the second respondent.

6. In an Open Letter Before Action dated 10 October 2025 to the first respondent, the applicant stated the counter-notice was invalid due to its failure to include all statutorily required statements or provide the address to which future communication relating to the subject matter of the notice could be sent. In any event the applicant asserted in answer to the first respondents objections that:

[RE] *"More than 25% of the internal floor area (excluding common parts) is occupied for non-residential use, namely the ground and basement commercial unit let to comprising approximately 107m2 (1,129 sq ft). • The two residential flats above amount to approximately 136 m2 (1 ,464 sq ft) in total Accordingly, the commercial element is approximately 44% of the internal floor area, exceeding the statutory threshold"*

Accordingly, your admission is that the building as a whole is 107m2 plus 136m2 = 243m2 and "the commercial element is approximately 44% of the internal floor area"

It would appear you are unaware of the amendment of the Act which as from 3rd March 2025 increased the 25% to 50%? Therefore, by your own calculations, the 50% limit is not reached until such time as any residential element were to exceed 50% of 243m2 = 121.5m2 and we note that the ground and basement commercial unit let to comprising approximately 107m2 thereby meeting those requirements.

You may wish to refer to:
https://www.legislation.gov.uk/ukpga/2024/22/part/3/crossheading/the-right-to manage... which you will note states;

49 - Change of non-residential limit on right to manage claims In Schedule 6 to the Commonhold and Leasehold Reform Act 2002 ("the CLRA 2002"), in paragraph 1(1) (non-residential limit on right to manage claims), for "25 per cent." substitute "50%"

Accordingly, S72(1) of the Act says;

(1) This Chapter applies to premises if—
(a) they consist of a self-contained building or part of a building, with or without appurtenant property, (b) (c) they contain two or more flats held by qualifying tenants, and the total number of

flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.

Although you do not refer to Sections 73(2) – (5) or Schedule 6 as these follow on from (1) these say;

(2) A building is a self-contained building if it is structurally detached.

(3) A part of a building is a self-contained part of the building if—
(a) it constitutes a vertical division of the building
(b) the structure of the building is such that it could be redeveloped independently of the rest of the building, and
(c) subsection (4) applies in relation to it.

(4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—
(a) are provided independently of the relevant services provided for occupiers of the rest of the building, or
(b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.

(5) Relevant services are services provided by means of pipes, cables or other fixed installations.
(6) Schedule 6 (premises excepted from this Chapter) has effect.

Schedule 6
Buildings with substantial non-residential parts

(1) This Chapter does not apply to premises falling within section 72(1) if the internal floor area—
(a) of any non-residential part, or
(b) (where there is more than one such part) of those parts (taken together), exceeds 50 per cent. of the internal floor area of the premises (taken as a whole)

(2) A part of premises is a non-residential part if it is neither—
(a) occupied, or intended to be occupied, for residential purposes, nor
(b) comprised in any common parts of the premises.

(3) Where in the case of any such premises any part of the premises (such as, for example, a garage, parking space or storage area) is used, or intended for use, in conjunction with a particular dwelling contained in the premises (and accordingly is not comprised in any common parts of the premises), it shall be taken to be occupied, or intended to be occupied, for residential purposes.

(4) For the purpose of determining the internal floor area of a building or of any part of a building, the floor or floors of the building or part shall be taken to extend (without interruption) throughout the whole of the interior of the building or part, except that the area of any common parts of the building or part shall be disregarded.

As to the second point, section 72(2) says;

72 (Premises to which Chapter applies

(1) This Chapter applies to premises if—
(a) they consist of a self-contained building or part of a building, with or without appurtenant property,
(b) they contain two or more flats held by qualifying tenants, and
(c)the total number of flats held by such tenants is not less than two-thirds of the total number of flats contained in the premises.

(2) A building is a self-contained building if it is structurally detached.

(3) A part of a building is a self-contained part of the building if—
(a) it constitutes a vertical division of the building,
(b)the structure of the building is such that it could be redeveloped independently of the rest of the building, and
(c))subsection (4) applies in relation to it.

(4) This subsection applies in relation to a part of a building if the relevant services provided for occupiers of it—
(a) are provided independently of the relevant services provided for occupiers of the rest of the building, or
(b) could be so provided without involving the carrying out of works likely to result in a significant interruption in the provision of any relevant services for occupiers of the rest of the building.

(5) Relevant services are services provided by means of pipes, cables or other fixed installations.

There are no shared services as such with other adjoining buildings, as opposed to being shared within the building itself, and as you seem to suggest that as it is a terraced property it fails to meet the requirements which, simply put, is simply incorrect as otherwise any terraced building split into flats could not implement RTM! There are clear vertical divisions between the adjoining premises

The purported counter-notice is not only invalid as a matter of law, but also entirely devoid of merit.

7. On 26 November 2026, the tribunal provided the parties with Directions in order to bring the application to a final hearing and determination. On

23 February 2026, the tribunal gave Notice of Intention to bar the respondents from taking any further part in the application due to their non-compliance with these Directions. No correspondence was received from the respondents and accordingly the Notice of Intention to debar the respondents took effect on 11 March 2026. No response to the assertions made by the applicant in its Open Letter were made by or received from the respondents.

The hearing

8. As neither party requested an oral the tribunal determined the application on the documents provided in the form of a 115 page digital bundle.

The tribunal's reasons

9. The tribunal finds the applicant has provided all of the necessary documentation in respect of the RTM company's intended acquisition of the right to manage the subject premises. The tribunal accepts the submissions set out in the applicant's letter together with the applicable law and finds that the Counter-Notice served by the first respondent was invalid due to the omission of statutorily required statements/information. The tribunal also finds the second respondent did not serve a counter-notice and therefore cannot be regarded as having objected to the application seeking the right to manage the subject premises.

10. The tribunal finds that less than 50% of the internal floor area (excluding common parts) is occupied for non-residential use i.e. the ground and basement commercial unit. The tribunal finds that by reason of the amendment made by s.49 of Leasehold and Freehold Reform Act 2024. That as from 3 March 2025 non-residential floor area was increased to a 50% threshold.

11. Further the tribunal finds there are clear vertical divisions between the adjoining buildings and that the subject premises are premises to which s.72(2) of the 2002 Act apply.

12. In conclusion, the tribunal finds the applicant is entitled to acquire the right to manage the premises at 349 West End Lane, London NW6 1 LT with effect from three months after the date of this decision becomes final i.e. three months from the date when the period for appeal ends or when any appeal (if made) is disposed of.

Name: Judge Tagliavini **Date: 25 March 2026**

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 should be made on Form RP PTA available at https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber

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).