



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **LON/00BH/HNA/2024/0002, 0615, 0622,
0621, 0003**

Property : **1) 29A
2) 29C (re: Sahall)
3) 29C (re: Rayan Holding)
4) 29D
5) 29F
Acacia Road, Walthamstow, London E17 8BN**

Applicants : **1) Ibrar Sahall
2) Rayan Holding Ltd**

Representative : **Ibrar Sahall in person**

Respondent : **London Borough of Waltham Forest
(Ref : PSH/2023/CP/497; PSH/2023/CP/488; PSH/2023/CP/489;
PSH/2023/CP/500; PSH/2023/CP/493)**

Representative : **Ms Sarah Salmon
Cornerstone Barristers**

Type of application : **Appeal against financial penalties
Section 249A & Schedule 13A to the Housing Act
2004**

Tribunal members : **ValuerChairman
I B Holdsworth FRICS
Stephen Mason FRICS**

**Date and venue of
Hearing** : **6-7 May 2026
10 Alfred Place
London WC1E 7LR**

Date of Decision : **11 June 2026**

DECISION

Decisions of the Tribunal

- a. The Tribunal confirms the Financial Penalty Notices served on Applicants (1) and (2) in respect of 29A Acacia Road (16 October 2023), (x2) 29C Acacia Road (4 November 2024), 29D Acacia Road (29 October 2024) and 29F Acacia Road (11 October 2023).
- b. The financial penalty of £62,400 is payable by Ibrar Sahall (the “**First Applicant**”) and a further £12,000 is payable by Rayan Holdings Limited (the “**Second Applicant**”). These payments, amounting to £74,400 in total to be made to the Respondents by **30 June 2026**.
- c. The Tribunal has deferred their decision on costs, pending further submissions by the parties. Any submissions on costs to be made within 28-days of this Decision.

1. The application

- 1.1 The Tribunal initially received Appeals from Ibrar Sahall ('First Applicant') against three Financial Penalties imposed under s.249A of the Housing Act 2004 ('the 2004 Act').
- 1.2 They subsequently received Appeals against three further Financial Penalties imposed under s. 249A of the 2004 Act. Two of these appeals were from the First Applicant and one from Rayan Holding Ltd ('the Second Applicant'). The First Applicant being the sole Director of the Second Applicant.
- 1.3 Details of the offences Appealed by the First Applicant are shown in table 1 below:

Address	Offence	Penalty	Date of Final Notice	Date Ho4 Appeal received at FTT
29A Acacia Road, E17	Failure to obtain a selective licence for the property	£15,600	16 October 2023	31 October 2023
29C Acacia Road, E17		£15,600	4 November 2024	21 November 2024
29D Acacia Road, E17		£15,600	03 & 29 October 2024	21 November 2024
29F Acacia Road, E17		£15,600	11 October 2023	31 October 2023

- 1.4 The Second Applicant Appealed the Financial Penalty Notice served on 4 November 2024 for their failure to obtain a Selective Licence for 29C Acacia Road, E17, the subsequent Appeal, of the penalty of £14,000, was made on 21 November 2024. Table 2 inset below provides further detail of the proceedings in this application.

Summary table of proceedings in Flats 29 A, C, D and F Acacia Road London

Flat No.	Tribunal Case Reference	Date on Notice of Intent	Penalty on NOI	Council Ref on Final Notice	Penalty Amount on Final Notice	Date on Final Notice	Date on Ho4 Application Form	Date Recvd by FTT
29a	LON/ooBH/HNA/2024/0002	08 September 2023 (page RB 2124)	£19,500	PSH/2023/CP/497	£15,600	16 October 2023 (page 2181, 2184)	30 October 2023	31 October 2023
29c	LON/ooBH/HNA/2024/0615 (Sahall)	01 September 2023 (page 80) 30 October 2024 (page 693)	£19,500	PSH/2023/CP/488	£15,600	04 November 2024 (page 700)	20 November 2024	21 November 2024
29c	LON/ooBH/HNA/2024/0622 (RAYAN)	01 September 2023 (page 93)	£17,500	PSH/2023/CP/489	£14,000	04 November 2024 (page 789)	20 November 2024	21 November 2024
29d	LON/ooBH/HNA/2024/0621	14 September 2023 (page 130) 16 October 2024 (page 568)	£19,500	PSH/2023/CP/500	£15,600	03 October 2024 (page 440) 29 October 2024 (page 572)	20 November 2024	21 November 2024
29f	LON/ooBH/HNA/2024/0003	07 September 2023 (page 106)	£19,500	PSH/2023/CP/493	£15,600	11 October 2023 (page 155)	30 October 2023	31 October 2023
Total :			£95,500	>>>>Reduced to :		£76,400.00		

- 1.5 The Tribunal issued final combined Directions on 11 August 2025 pursuant to which the Applicants filed a bundle (amounting to 58 pages). Reference to this bundle will be prefaced by 'A'.
- 1.6 The Respondent filed their bundle (amounting to 797 pages) containing the evidence on which they sought to rely in support of their decision to impose the Financial Penalty. Reference to this bundle will be prefaced by 'R'.
- 1.7 The Respondent submitted an additional bundle (amounting to 2,596 pages), which was prepared following a request for further disclosure by the Applicants. Reference to this bundle will be prefaced by 'RAB'.
- 1.8 The Respondent had also prepared a reply to the Applicants' bundle (amounting to 14 pages).
- 1.9 A bundle of authorities was also filed by Counsel for the Respondent.
- 1.10 In their application, the Applicants claimed that the Respondent, London Borough of Waltham Forest ('LBWF'), had failed to:
 - identify control of the Property.
 - accurately investigate the facts surrounding the lettings at the Property.
 - Disproportionately issued the fines.

2. The hearing

- 2.1 Mr Ibrar Sahall (First Applicant) was a litigant in person.
- 2.2 Ms Salmon, Counsel, (instructed by Sharpe Pritchard Solicitors), appeared for the Respondent and was accompanied by Mr Dada, a trainee solicitor with Sharpe Pritchard.

- 2.3 Counsel called four witnesses to give evidence. They were: Ms Carole Haynes and Ms Catherine Lovett (both team managers with LBWF) and Ms Tasha Reid and Ms Sarah Jayne Christie (licensing enforcement officers with LBWF).
- 2.4 The First Applicant confirmed he was acting on behalf of both himself and Rayan Holding Ltd (the Second Applicant). Advising he was the sole Director of Rayan Holding Ltd (**'Rayan'**).
- 2.5 The First Applicant referred Tribunal to the witness statement submitted by Mr Madusa Khan of Property Trend Lettings Limited (**'Property Trend'**) the lettings/managing agent, who was responsible for management of the Property, at the time the alleged offences took place. The First Applicant told the Tribunal that Mr Khan was indisposed, having been subject to recent medical treatment. Evidence of Mr Khan's illness was submitted to the Tribunal on the second day of the hearing.
- 2.6 As a preliminary matter the First Applicant asked whether his witness could attend the hearing by telephone. Counsel for the Respondent objected to this request stating that, given the importance of the evidence to be offered by Mr Khan, it was essential he presented his evidence either in person, or by video link.
- 2.7 The Tribunal considered the submissions made by both parties and offered the Applicants the opportunity for Mr Khan to attend the Tribunal hearing, either in person or by video link. The First Applicant said he would encourage his witness to attend. Subsequent, on day two of the hearing, the First Applicant advised Tribunal that Mr Khan had refused to attend in any capacity. No reason for this refusal was given by the First Applicant, except to reiterate Mr Khan's medical condition.
- 2.8 The Tribunal explained to the First Applicant that, the lack of opportunity to cross-examine Mr Khan and thereby verify the evidence submitted in his witness statement would be a material matter when the Tribunal weighed that evidence. The First Applicant confirmed he understood the impact Mr Khan's absence from the hearing would have on the weight Tribunal gave to the evidence contained in Mr Khan's witness statement.

3. **The law**

- 3.1 The Housing Act 2004 ('the 2004 Act') introduced a new system of assessing housing conditions and enforcing housing standards. Part 2 of the Act relates to the licensing of Houses in Multiple Occupation ('HMOs') whilst Part 3 relates to the selective licensing of other residential accommodation.

3.2 Part 3 of the 2004 Act gives LHAs a discretion to adopt a selective licensing designation within their district if certain statutory criteria are fulfilled (section 80). Once a designation is in force, every Part 3 house must be licensed unless it is an HMO or a temporary exemption notice or management order is in force (section 85(1)). Part 3 applies to 'houses' if, inter alia, they are located in an area subject to a selective licensing, and if either (i) the whole house is occupied under a single tenancy; or (ii) the whole of it is occupied under two or more tenancies in respect of different dwellings contained within it (section 79).

3.3 Section 95 (1) creates an offence of '*having control or management of an unlicensed house*'. Section 263 provides:

'(1) In this Act 'person having control', in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) 'rack-rent' means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act 'person managing' means, in relation to premises, the person who, being an owner or lessee of the premises—

(a) receives (whether directly or through an agent or trustee) rents or other payments from—

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

It is to be noted that there may be more than one person who may commit an offence under section 95

as having control of or managing an unlicensed house.'

- 3.4 By section 79(3) (a-c) of the 2004 Act, a tenancy is an exempt tenancy or licence if it is:

'Granted by a non-profit registered provider of social housing.'

- 3.5 All local authorities in England are registered providers of social housing. The council therefore accepts that tenancies granted by a local authority would meet the exemption. For the exemption to apply, the local housing authority must be the landlord that grants the sub-tenancy. The local housing authority must therefore grant tenancies to the occupants for the purposes of section 79(3) of the 2004 Act.

- 3.6 By section 95(5), a person who commits an offence under section 95(1) is liable on summary conviction to an unlimited fine. Alternatively, by section 249A, a LHA may impose a Financial Penalty of up to £30,000:

'The local housing authority may impose a financial penalty on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence in respect of premises in England. This includes ... offences under section 72 (licensing of HMOs).'

- 3.7 Schedule 13A deals with the procedure for imposing Financial Penalties and appeals against them. Paragraph 10 of Schedule 13A provides for a right of appeal:

'(1) A person to whom a final notice is given may appeal to the First-tier Tribunal against—

(a) the decision to impose the penalty, or

(b) the amount of the penalty.

(2) If a person appeals under this paragraph, the final notice is suspended until the appeal is finally determined or withdrawn.

(3) An appeal under this paragraph—

(a) is to be a re-hearing of the local housing authority's decision, but

(b) may be determined having regard to matters of which the authority was unaware.

(4) On an appeal under this paragraph the First-tier Tribunal may confirm, vary or cancel the final notice.

(5) The final notice may not be varied under subparagraph (4) so as to make it impose a financial penalty of more than the local housing authority could have imposed.'

4. Background

- 4.1 The Respondent local authority operated its first borough-wide selective licensing scheme from 1 April 2015 to 31 March 2020. Thereafter, adopting a second selective licensing scheme, which applied to residential premises in 18 of the 20 wards in the borough, which expired on 30 April 2025. This was then replaced by a third selective licensing scheme which has been applied to the entire borough, effective from May 2025 through to April 2030.
- 4.2 29 Acacia Road, E17 8BN (**'the Property'**) is located within a ward area included within all the selective licensing schemes.
- 4.3 In early-2023 the Respondent carried out a desktop audit of properties throughout the borough that were potentially unlicensed let dwellings. Following this audit on 8 March 2023 a council officer attempted, an unannounced inspection of Flats 29A, 29C, 29D and 29F (**'the Flats'**) at the Property. The officer gained access to flats 29A and 29F , with only partial entry into 29C and 29D.
- 4.4 The Respondent subsequently contacted the Applicant landlord about obtaining access to Flat 29C and 29D and a further visit to these flats was carried out on 14 March 2023.
- 4.5 Subsequent to these inspections the Respondent advised the Applicant landlord that each of the inspected flats required a licence, in order to comply with the selective licensing scheme applicable to the area. This advice was sent to the known correspondence addresses for both the First and Second Applicants.
- 4.6 The Respondent sent a further reminder to the Applicants of the need for the licences on 22 March 2023, via an e-mail address advised by the tenants at the time of the inspections.
- 4.7 No response was received from the Applicants to either the original letter or the reminder e-mail. The Council had itself carried out further enquiries, which had revealed the Applicant landlord as the freeholder, the proposed licence holder and receiver of rents applicable to the Flats within the Property.
- 4.8 During May 2023 Council staff attempted to contact the First Applicant by telephone and SMS message; he did not respond.
- 4.9 Notices of Intent were then issued for: Flat 29C on 1 September 2023; Flat 29F on 7 September 2023; Flat 29A on 8 September 2023; and Flat 29D on 14 September 2023.

- 4.10 The Applicant landlord responded with a licence application on 14 September 2023 in respect of all flats 29A, 29C, 29D and 29F. No representations were made at that stage in respect of the four Notices of Intent.
- 4.11 The Respondent after further deliberation issued Final Decision Notices for Flat 29D on 3 & 29 October 2024 and Flat 29A on 16 October 2023. Further Final Decision Notices were then issued in respect of Flat 29F on 11 October 2023 and for Flat 29C on 4 November 2024. Following which the Applicant landlord made representations seeking an abatement of the financial penalties.
- 4.12 The fine imposed on the First Applicant for each offence following an adjustment to reflect his application for a licence made on 14 September 2023 is £15,600. Rayan were identified as '*having control or management of an unlicensed house*'. They were given a Final Decision Notice on 4th November 2024 and made subject to a penalty of £14,000.
- 4.13 An appeal was made to the First Tier Tribunal as part of the Applicants' response to the Notices of Intent issued in September 2023.
- 4.14 The Respondent relied upon contemporaneous witness statements made by the tenants of the Flats made during the inspections in March 2023. The Council officers who both undertook the inspections and supervised the issuance of Penalty Notices provided witness statements to the Tribunal.

5. Evidence

5.1 The grounds of appeal

- 5.1.1 The First Applicant, in his opening statement, reiterated his grounds of appeal as submitted in his Statement of Case (bundle A p.6), in which he states:
 - a) The relevant Flats were placed with Property Trend, a professional managing agent on the basis each Flat was let as temporary accommodation. The First Applicant believed this letting condition exempted him from the selective licencing scheme.
 - b) That Property Trend, as the letting/managing agent were transferred full operational control and authority over the Flats.
 - c) He alleged Property Trend then departed from the agreed letting arrangements without the Applicants' authority.
 - d) Difficulties with the Respondent's on-line portal had prevented him subsequently registering the Property and Flats and obtaining selective licences.

- e) The Respondent's investigations and decision-making process was procedurally flawed. He gave the example of Council staff continuing to gather further evidence after the Final Decision Notices had been issued.
- 5.1.2 The First Applicant offered corroboration of his assertion about the use of the Flats as only temporary accommodation, by taking the Tribunal to four one-page documents (bundle A p.43-46), which he proffered as tenancy agreements between Property Trend and himself for each of the flats.
- 5.1.3 These documents are entitled '*Let Agreement*'[sic] being for a term of four-years, from 1 December 2019. The First Applicant was referred to as '*Owner*' and Property Trend as '*Agent*'. The words '*landlord*' and '*tenant*' did not appear in the Let agreement. The rent was stated as being a guaranteed £900 per month.
- 5.1.4 The First Applicant said the purpose of the Let Agreement was to assure assignment of the Property-to-Property Trend for the sole purpose of letting the Flats as temporary accommodation.
- 5.1.5 He said he had not made enquiries of Property Trend as to the use of the Flats at the Property after he had appointed them as letting/managing agent. As Mr Khan was a friend, he did not doubt that he would carry out his wishes but since the instruction of Property Trend to manage the Flats Mr Khan had developed medical problems.
- 5.1.6 Counsel in cross-examination asked whether he had ever been given documents by anyone that confirm the Flats were let to a local authority as temporary accommodation. He replied no. He also told Counsel that he had no understanding of the legislation surrounding letting of property as temporary accommodation through a local authority.
- 5.1.7 Mr Ibrar Sahall explained he relied wholly on the management skills of Property Trend and only discovered the inadequacy of the agent following receipt of the Councils' correspondence, that required him to obtain selective licences. He said the delay in securing the licences was because Property Trend had assured him, they would promptly deal with this matter.
- 5.1.8 The First Applicant then said that the Respondent's on-line portal was faulty as he was unable to register the Flats for licencing purposes after receipt of the Notices of Intent. He did not refute the evidence given by the Respondent that from March 2020 the Flats were listed and accessible via the portal as individual hereditaments. He could not explain why he had not been able to access the Flats via the portal in April 2023 when he attempted to do so.

- 5.1.9 The Appellants other ground for appeal is that the Councils decision-making process was procedurally flawed. He gave the example they had failed to consider representations, following issue of the Notices of Intent.
- 5.1.10 In cross-examination he did accept that two of his representations were made out of time, whilst the other two were acknowledged, reviewed and commented upon, prior to the issue of the Final Penalty Notices.
- 5.1.11 Queries were also raised as to the reliability of the evidential basis, used by the Respondent, in issuing the Final Penalty Notices. The First Applicant said the witness statements provided by the tenants did not reflect the operation of the Flats, alleging Mr Khan had impersonated him and that he was not actively involved in management of the Property. The tenants' witness statements obtained by the Respondent's officers at the time of the various inspections evidenced regular management by Mr Sahall.
- 5.1.12 Mr Sahall in testimony did not dispute he had failed to secure selective licences for the Flats at the dates of inspection. He accepted this breached the designation of the Property in that area of Waltham Forest. He reminded the Tribunal he had subsequently applied for licences for each of the Flats on 14 September 2023.
- 5.1.13 Mr Sahall then addressed the issue of the Second Applicant, Rayan Holding Limited being subject to a penalty fine of £14,000. He started by saying they had no part to play in the management of the Flats. Then during cross examination he contradicted this statement when he said, *"the rents received from Property Trend were passed to the Second Applicant, following which a distribution was made to him as landlord"*. He said this was how rents were distributed for all five of the Flats at the Property. He used this as an argument for the illogical basis upon which a single offence was being pursued, given the offence applied to all Flats at the Property.
- 5.1.14 The Respondent's four witnesses, spoke to their witness statements. They corroborated the information gathered during the inspections, highlighting that the First Applicant was given as the *'landlord'* by three of the tenants, with the tenant of Flat 29C referencing the Second Applicant.
- 5.1.15 Counsel referred the Tribunal to (1) ***Global Guardians Management Ltd (2) Global 100 Limited (3) Theo Kyprianou (Appellants) – v – (1) London Borough of Hounslow & Others (Respondents) [2022] UKUT 259 (LC)***, in which a landlord who did not receive rents was nevertheless found liable, whilst companies collecting rent were found liable under s.263(1) of the Tribunals, Courts and

Enforcement Act 2007 even though they had no estate or interest in the premises.

- 5.2 Counsel also asked the Tribunal to consider whether the First Applicant was liable for the offences committed by the Second Applicant in each Flat at the Property, by virtue of s.251(1) of the 2004 Act, where:

*'An offence under this Act committed by **a body corporate** is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of: -*

(a) a director, manager, secretary or other similar officer of the body corporate; or

(b) a person purporting to act in such capacity;

he as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.'

(Tribunal emphasis)

6. Civil Penalty Notices

- 6.1 The total fine imposed on the two Applicants by LBWF is £76,400. The fine imposed for each offence is shown at table 1 at paragraph 1.3 and, paragraph 1.4.
- 6.2 The First Applicant referred Tribunal to the findings of Thames Magistrates Court, on 18 June 2024 where he had been found guilty of 10 criminal offences arising from his failure to obtain selective licences in relation to several letting properties he managed in the LBWF. He alleged the fine imposed by the Court was £1,400 per offence and claimed they strictly limited the local authority's recoverable costs. He said these outcomes reflected judicial assessment of limited culpability and an absence of aggravating features.
- 6.3 The First Applicant acknowledged the Tribunal was not bound by criminal court sentencing decisions, but he asserted such outcomes were relevant when making an assessment of proportionality. He said it would be anomalous and unfair for a civil enforcement regime to impose penalties that were materially more severe than those imposed by a criminal court for similar conduct, absent of compelling and articulated reasons. He said no such reasons existed in this case.
- 6.4 Counsel directed the Tribunal to apply the policy introduced by her client local authority in May 2020. The criteria for assessment of Civil Penalty Notice fines is an integral part of this policy. The relevant criteria are at R pp.61-88 .

- 6.5 Counsel for the Respondent explained that this policy had been reviewed since the Civil Penalty Notices were issued and a new policy is now in place, This was at pp. 89-118 of R. Counsel said the policy identified a starting point, in the middle of band 4 (“serious”), of the Civil Penalty matrix for the offence of failing to obtain a selective licence, where a landlord owned six or more dwellings. This provided a minimum indicative tariff of £17,500. Any specific aggravating feature was then applied to calculate the fine. There was demonstrated evidence that the landlord/managing agent was familiar with the need to obtain a selective licence. Accordingly the Council increased the fine by £2,000, generating a Civil Penalty of £19,500 for each offence. The Respondent subsequently applied a 20% reduction to each fine to reflect the fact the breach was remedied, by way of licencing applications. These applications were made in September 2023, prior to the Final Decision Notices being issued. This 20% discount led to penalties being reduced to £15,600 per Flat.
- 6.6 Counsel further explained the new policy adopted in 2025 recognised the need to consider the totality principle when multiple penalties were imposed. This requirement did not form part of the CPN policy or fine matrix aspect at the time the Final Decision Notices were issued to the First and Second Applicants.
- 6.7 She said the June 2024 Magistrates Court's findings of criminal offences were not known to the Council at the date of the Decision Notices. This is a material consideration in assessment of the penalty.
- 6.8 The Second Applicant was also identified as being subject to the minimum indicative tariff of £17,500, but not to aggravating features. They also benefited from the 20% for remedying the breaches, generating a Civil Penalty of £14,000 per Flat.
- 6.9 No evidence was given to justify the assertion that Rayan Holding passed the ownership threshold of six properties, required to achieve band 4 on the Civil Penalty matrix.
- 6.10 **Tribunal's decisions**
- 6.10.1 The Tribunal first addressed the contention that the Applicant had a reasonable excuse for his acknowledged failure to secure the necessary Selective Licences for the flats.
- 6.10.2 The Tribunal has had regard to the Decision of the Upper Tribunal in *Marigold – v – Wells [2023] UKUT 33 (LC)*, *[2023] HLR 27* in which the Deputy Chamber President (paragraph 48) suggested that:

'Any reasonable excuse defence could usefully be approached in the following way: -

- (i) *what facts does the landlord assert give rise to a reasonable excuse;*
- (ii) *are those facts proved?; and*
- (iii) *do these proven facts amount objectively to a reasonable excuse?'*

- 6.10.3 This authority is relevant given the First and Second Applicant's principal grounds for appeal are that they had a reasonable excuse for not securing Selective Licences.
- 6.10.4 The Tribunal addressed the Applicant's narrative that the Flats were assigned to Property Trend (his letting/managing agent) for the sole purpose of letting the Flats as temporary accommodation. Mr Sahall referred Tribunal to the one-page document which he claimed was a tenancy agreement/ contract between Property Trend and himself.
- 6.10.5 The Tribunal found Mr Sahall an unreliable and factually inconsistent witness. He provided no copies of tenancy agreements, that proved the creation of tenancies between the Respondent local authority and social housing tenants. Neither did the Respondent have any knowledge of any such tenancies. This was confirmed in a written witness statement given by Ms Megson, the LBWF social housing coordinator. The four witnesses from LBWF who attended and were cross examined by Mr Sahall validated her statement.
- 6.10.6 Mr Sahall never enquired of Mr Khan or Property Trend about the existence of any leases granting temporary accommodation. Ignorance of the need for a licence is only a reasonable excuse if a landlord has taken reasonable steps to keep himself informed, see **Thurrock Council v Daoudi [2020]**. This was not done. When questioned he was not aware of the requirement that any tenancy for temporary housing use must be granted by the social housing provider. No evidence was given that validated the assertion of the agent departing from Mr Sahall's stipulation of only letting the flats for temporary accommodation. Tribunal therefore concluded there was no factual basis on which the Flats had been let as temporary accommodation in accordance with the statutory guidance. They were unable to identify any evidence to prove the underlying factual basis for his reasonable excuse. The guidance in Marigold was not satisfied.

Reliance upon managing Agent

- 6.11 The First Applicant's justification for failure to obtain Selective Licences, was that he had abdicated his responsibilities to Property Trend for the letting and management of the Flats, which he claimed had included the responsibility for securing appropriate licences for the Flats. He alleged “*the agents were transferred full operational control and authority over the flats*”

- 6.12 The Tribunal was referred to the Upper Tribunal's Decision in *Aytan – v – Moore & Others [2022] UKUT 27 (LC)* at paragraphs 38, 40 and 42, stated that:

'We would add that a landlord's reliance upon an agent will rarely give rise to a defence of reasonable excuse. At the very least the landlord would need to show that there was a contractual obligation, on the part of the agent, to keep the landlord informed of licencing requirements. There would need to be evidence that that landlord had good reason to rely upon the competence and experience of the agent and, in addition, there would generally be a need to show that there was a reason why the landlord could not inform himself of the licencing requirements without relying on an agent, for example, because the landlord lived abroad.'

- 6.13 The Tribunal noted that by his own admission the First Applicant was in regular contact with Mr Khan of Property Trend as a friend and professional colleague. He gave no reasons to explain why such regular contact would not afford him an opportunity to ask reasonable questions as to the management of the Flats. The Tribunal do not accept a prudent landlord would assign all management responsibilities to an agent in the circumstances as described. The Tribunal again conclude the Applicants had no factual basis to prove Property Trend acted in conflict with their instructions. Accordingly, no reasonable excuse defence was proven in accordance with the **Marigold** and **Thurrock** guidance.

7. Procedural irregularities

- 7.1 The next matter the Tribunal needed to consider was whether any procedural irregularities occurred that undermined the validity of the service of the Final Decision Notices.
- 7.2 It was not in dispute that the First Applicant had received all Notices, sent both to Property Trends and Second Applicant at their respective registered addresses. This was done by post and e-mail.
- 7.3 The comments made by Mr Sahall as to the failure of LBWF to consider his representations were not proven on any factual basis. He referred to two sets of representations which were both out of time and a further two other representations to which LBWF responded. After consideration of his submissions they decided not to reduce the fine. No evidence was given of the Council collecting data or other materials relevant to the offence after the service of the Final Notices. All evidence relied upon at the hearing was prior

or contemporaneous to the dates of issue of Final Decision Notices. No procedural irregularity was identified by the Tribunal.

- 7.4 The First Applicant accepted the witness statement from LBWF that any defects with the portal were cured in March 2020 some 3 years before the offence date. He was also unable to confirm whether he or a member of staff from Property Trend had discovered the portal error. There was no evidence any defect existed with the portal as at or around March 2023. These grounds had not formed a reasonable excuse for non-compliance.
- 7.5 The Tribunal therefore concluded no reasonable excuses were available to the First Applicant for his failure to secure Selective Licences for the Flats.

8. Penalties

- 8.1 The Tribunal are cognisant that LBWF Selective Licencing policy has changed since the penalties were imposed on the Applicants and it was now a requirement for the Respondent to consider the totality of the Civil Penalties applied.
- 8.2 It is the role of the First Tier Tribunal to rehear this application. Any new issues that may have arisen since the original Decision should be considered.
- 8.3 The criminal record of the First Applicant *is a* material matter. The Tribunal is also aware of the Decision dated 3 April 2025 to issue a Rent Repayment Order to the tenants of 6 Poplars Road, E17 9AT (another of the First Applicant's properties).
- 8.4 It is for these reasons the Tribunal has decided that although a reduction in the Civil Penalties was merited to reflect totality, any reduction would be offset by the further aggravating features arising from the subsequent criminal conviction, banning order and RRO since the Final Decision Notices was issued.
- 8.5 The Tribunal has addressed the Civil Penalties imposed on the Second Applicant. They are aware that the aggravating features supplement was not applied when calculating the penalty and the Respondent did apply the 20% discount following the licence applications.
- 8.6 The Tribunal has focused on the starting point for the Civil Penalties. This is based on ownership of six or more properties by the offending party. No evidence was given the Second Applicant was *'having control or management of an [6] unlicensed* but Mr Sahall did confirm the Rayan Holding was involved or associated as the manager of five properties at 29 Acacia Road. The Tribunal referred to R p.72 which is a table that sets-out severity of the offence based upon the number of properties held by a landlord/managing agent. The Tribunal has concluded the

evidence is that the Second Respondent had control over five Flats at 29 Acacia Road only. The Civil Penalty should accordingly fall into the band £10,000-£15,000. A penalty of £15,000 is adopted less 20% in respect of the Selective Licences having been applied for, and therefore the penalty for the Second Applicant should be **£12,000.**

- 8.7 The Tribunal do not dispute the culpability of the Second Applicant as set-out by the Respondent in its statement of case. It is apparent the Second Applicant was an active party to the letting of the Flats and thereby, as responsible for the failure to obtain Selective Licences in a timely fashion as Mr Sahall.

9. Costs

- 9.1 No application for costs was made at the hearing.
- 9.2 The First Applicant had already made a rule 13 application to Tribunal, along with an application to bar the Respondents. The Tribunal had dealt with these matters.
- 9.3 It is acknowledged the parties might make an application for costs arising from this Decision. Any application should be made within 28-days of the date of this Decision Notice and shared with the other parties, as well as the Tribunal.

Name: Ian B Holdsworth
Valuer Chairman

Date: 11 June 2026

RIGHTS OF APPEAL

- 1 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.
- 2 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.
- 3 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.
- 4 The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie, 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.