Chancery Legal Ltd
Barristers & Attorneys

Trinity Hall, 43 Cedar Avenue, Hamilton, HM12, Bermuda

MP/ca/ltr1

8th March 2023

Ministry of Health
Department of Health
Continental Building
25 Church Street,
Hamilton

Attn: Honorable Kim Wilson

Dear Madam,

Re: Our clients**: Bermuda Clean Air Coalition -Sharon Riviere, Thad Murdoch and Anthony Hayward**
Statutory nuisance caused by Belco emissions

We represent a collective group of individuals jointly organized as "**Bermuda Clean Air Coalition**" in addition to other residents of the area near to BELCO including the above named individuals.

Our clients have substantial complaints against BELCO related to ongoing statutory nuisances.

These nuisances, as defined in the **Public Health Act 1949**, first schedule, include the accumulation and deposit of dust and soot and other particulates onto the rooves, properties and vehicles of persons in the neighborhoods in the vicinity of the BELCO Plant in Pembroke. These emissions are also the unequivocal cause of grossly discoloring the drinking and bathing water of said inhabitants homes. It is of further note that BELCO has accepted, by its actions and admissions, responsibility for being the direct cause of this significant problem.

It is a common sense conclusion that these deposits are impacting on the health and welfare of individuals in the area by polluting the air and water, and also causing regular noxious odors, all of which are offensive to our clients, and have been detected as far away as Harbor Road in Paget.

It is further beyond refute, that these nuisances are a result of the burning of low quality fuel at BELCO, and the failure to abate emissions properly, and are prejudicial and offensive to the inhabitants, schools and business operations in the area.

We respectfully make a formal complaint on behalf of the area residence requiring your immediate attention and action.

It is an important fact to highlight that BELCO continues to perpetuate the aforesaid nuisances. In considering the provisions of The Act the author of the nuisance should be deemed to not only be BELCO Ltd Bermuda, but the Canadian company, Algonquin, who is the 100% owner of BELCO, and who at the time of the acquisition of the Plant effectively assured The Government and the Regulators and the people of The Island that they would;

"commit *$300 million to increase the amount of reusable energy to ultimately replace fossil fuels...not just helping the local economy but helping the planet."*

Given ongoing events these assertions ring painfully hollow.

Candidly, the Government of Bermuda effectively allowed for this purchase to occur on the basis of what appears to our clients to be nothing more than false promises in order for a Canadian multi billion dollar company to secure a potential financial opportunity in the purchase of BELCO.

It is entirely understandable why right thinking people view the current crisis as a large corporate organization putting profit over Bermudians health.

For reasons that are unknown to us, and despite the vociferous comments of a number of Government Ministers, the Government has failed to take the action required.

We submit that in accordance with **Section 54 of The Public Health 1949**, your Ministry should have no challenge in being satisfied of the existence of the nuisances, which were described publicly by the Honorable Minister of the Environment, Walter Roban, as "abhorrent" . We emphatically concur with this pointed analysis. The area MP, Minister Justin Hayward, even called upon area residents not to pay their BELCO bills in light of the ongoing offence.

In the circumstances this is a matter of National concern, and all hyperbole aside it is nothing short of an environmental and health emergency. The fact that a lack of legislation has purportedly been cited as a reason for inaction is patently wrong in law as we are confident you will concur given the significant powers available to you under **The Public Health Act** in addition to other Ministerial powers contained in other legislation (i.e The Clean Air Act 1991.)

Consequently, our clients require you as a matter of urgency and National importance, and in the public interest, to act in accordance with your powers as Health Minister, and cause there to be served on the authors of the nuisance an Order requiring that said nuisance be immediately abated Furthermore, a direction that urgent steps be taken to make use of cleaner burning fuel so as to ameliorate the extent of the current emissions and pollutants and also a demand that immediate work be commenced for refurbishment, adjustment or maintenance of the current BELCO plant to ensure that the nuisance is properly abated in accordance with required legislation.

We would respectfully ask that you confirm your intended action to us within the next (7) seven days, our clients reserve all of their legal rights and options in order to ensure that the aforementioned nuisance is addressed immediately by your Ministry and the Government.

Yours respectfully,
CHANCERY LEGAL LTD

Mark Pettingill J.P.
Director

Cc: Hon David Burt (Premier)
Hon Water Roban
Hon Jason Hayward
clients