



Electrifying California: The Role of Community Associations in Reducing Greenhouse Gases in California

by Jonathan R. Davis, Esq.

Under the Global Warming Solutions Act of 1996, California law requires the state to reduce its greenhouse gas emissions by at least 80% by 2050. Transportation is the leading contributor to California's greenhouse gas emissions, so the state has aggressively adopted policies to incentivize Californians to use alternative energy vehicles. State incentives for such vehicles include allowing drivers of such vehicles to use carpool freeway lanes when driving alone, and generous tax credits to purchasers of new alternative energy vehicles. Unsurprisingly, alternative energy vehicles are quickly gaining popularity in the Golden State.

While state incentives began with mild hybrid cars such as the Toyota Prius, technology has progressed substantially to the point where California incentives now focus primarily on plug-in hybrid electric vehicles (PHEVs) like the Chevrolet Volt and battery electric vehicles (BEVs) like the Tesla Model 3. PHEVs and BEVs can be plugged into power outlets and run solely on electricity rather than gasoline. While most PHEVs and BEVs can be plugged into standard 120-volt wall outlets, such charging takes a substantial amount of time. Thus, many BEV and PHEV owners use special 208/240-volt electric power stations to charge more quickly. These charging stations typically require special wiring and professional installation.

The impact of all this on California common interest developments (aka "HOAs") is that associations will soon be fielding increasing requests from residents to install specialized car-charging stations — including requests to install charging stations in common area garages and exclusive use parking spaces.

California law requires HOAs to permit electric car charging stations in exclusive-use common area parking areas subject to requirements set forth in the civil code.

In keeping with the legal requirement that California reduce its greenhouse gas emissions, the California Legislature has adopted policies making it substantially easier for HOA members to utilize alternative energy vehicles. Civil Code Section 4745 bars homeowners associations from prohibiting or unreasonably restricting the installation of charging equipment in common area garages:

"Any covenant, restriction, or condition...and any provision of a governing document...that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in an owner's designated parking space... is void and unenforceable."

This is not to say that homeowners associations are required to rubber stamp all applications for such installations. Associations must act reasonably regarding installation of car charging stations and work to accommodate owners requesting to install such units. In other words, HOAs need to find a viable way to allow residents to install electric car charging stations while still maintaining quality of life for other members. The best way to do so is to have a plan in place to process such requests.

HOA Planning for Electric Car Charging Stations

In some cases, HOAs may wish to amend their governing documents to establish rules and processes for the installation of electric car charging spaces in common area parking. Typically, such rules should lay out a process for homeowners to apply for installation of a unit, establish standards for review of such applications, provide for HOA supervision of installation of the stations, and establish to what extent the homeowners and/or HOA is responsible for the costs of installation, which can sometimes be expensive. Such processes should be similar to the association's architectural modification review rules already in place.

While HOAs are not required under the Davis-Stirling Act to pay for installation of car charging stations – which can be expensive – some HOAs may want to consider installing car chargers in parking spaces wherein all owners have access to use of the charging stations. This solution may be useful for HOAs where the installation of multiple chargers in common areas is not viable but where it is expected that multiple owners will want to install charging units for their BEVs and PHEVs. If exercising this option, HOAs will need to determine what kind of electric charging unit to install and how it will operate. Associations could choose to own, manage, and operate the electric charging station themselves. In other cases, an association can own the equipment and hire a vendor to service the charging stations. Users can pay per electric charging session or pay a monthly flat fee for unlimited use. In other cases, an



outside operator who owns the charging station can provide a service wherein they install, manage, and operate the charging station on association property for a monthly fee, either to the user or to the HOA.

Every HOA community is unique, and not every car charging installation solution will fit every building. Therefore, associations should enlist the services of electrical contractors and/or charging unit installers to evaluate their options. HOAs should also reach out to their lawyers to assist in negotiations with such contractors and evaluate any necessary additions or modifications to the governing documents that may be necessary to accommodate charging stations.



Jonathan R. Davis, Esq. is a Senior Associate with Richardson|Ober, a law firm known for its Community Association services. Should you require legal counsel, you can email him at jonathan@richardsonober.com.