OLR Analysis of Electric Vehicle Charging

RIGHT TO CHARGE IN CONDOMINIUMS AND COMMON INTEREST COMMUNITIES

Establishes “right to charge” in condominiums and common interest communities by voiding governing document provisions that unreasonably restrict EV charging installation in a unit or limited common element parking space; establishes requirements for processing applications and provisions applicable to charging station installation

The Act establishes “right to charge” provisions for unit owners in condominiums (§ 2) and common interest communities (§ 3). Beginning October 1, 2022, the Act makes void and unenforceable any provision in declarations, bylaws, rules, or condominium instruments, as applicable (“governing documents”), that prohibit or unreasonably restrict EV charging station installation in a unit or limited common element parking space.

An EV charging station is an electric component assembly or cluster of component assemblies designed specifically to charge batteries in EVs by permitting the transfer of electric energy to a battery or other storage device. Limited common elements are portions of the condominium or common interest community designated as reserved for the use of one or more units, but not all units.

Under the Act, EV charging stations in condominiums and common interest communities must meet all applicable health and safety standards and requirements under federal, state, or municipal law.

Exceptions

The Act’s right to charge provisions do not apply to condominiums and common interest communities that (1) impose “reasonable restrictions” on EV charging stations or (2) have EV charging stations in a number that is at least equal to 15% of the units. Reasonable restrictions are those that do not significantly increase an EV charging station’s cost or decrease its efficiency or specified performance.

Application Processing

Under the Act, unit owners may apply to install an EV charging station to the applicable governing body (board of directors or executive board). If the parking space is located in a limited common element, the unit owner must have written approval from each owner of each unit that has reserved use of the limited common element parking space. The governing body must (1) acknowledge, in writing, the application within 30 days after receiving it and (2) approve or deny an application, in writing, within 60 days after receiving it. The governing body must process the application in the same way as the governing documents require for other additions, alterations, or improvements.

Under the Act, unless the governing body reasonably requests additional information within the 60-day period for acting on an application, an application that is not denied in that timeframe is deemed approved.

Conditions for Approval
Under the Act, the governing body must approve an EV charging installation if the owner agrees in writing to:

1. comply with provisions in the governing documents regarding an addition, alteration, or improvement;

2. have a licensed and insured contractor install the charging station;

3. provide a certificate of insurance within 14 days after approval that shows insurance coverage in amounts the board deems sufficient;

4. pay for the charging station’s installation-associated costs (e.g., increased master policy premiums, association attorney’s fees, engineering or professional fees, permits, and applicable zoning compliance); and

5. pay for the charging station’s electricity usage.

**Unit Owner Responsibilities**

The Act makes the unit owner, and each successive owner, of the EV charging station responsible for the following:

1. costs for damage to the EV charging station, common elements, or units due to the EV charging station’s installation, use, maintenance, repair, removal, or replacement;

2. costs to maintain, repair, and replace the EV charging station until its removal;

3. costs to restore the physical space where the charging station was installed after its removal;

4. associated electricity costs;

5. common expenses from uninsured losses under any master insurance policy the association holds on behalf of unit owners; and

6. disclosing to prospective buyers (a) the charging station’s existence, (b) the associated responsibilities, and (c) that the purchaser accepts the charging station unless it is removed before the unit’s transfer.

The Act also specifies that a unit owner is not required to maintain liability coverage for an existing National Electrical Manufacturers Association standard alternating current power plug.

**Permitted Association Actions**

The Act specifically authorizes associations to do the following:

1. install an EV charging station in the common elements to be used by all unit owners and develop appropriate rules for the station’s use;

2. create a new parking space where one did not previously exist to facilitate installing an EV charging station;

3. require the unit owner to remove the EV charging station before the unit’s sale unless the purchaser agrees to take ownership of the station; and
4. assess the unit owner for any uninsured portion of a loss associated with an EV charging station, from a deductible or otherwise, regardless of whether the association submits an insurance claim.

**Attorney’s Fees**

The Act specifies that the prevailing party must be awarded reasonable attorney’s fees in any action by an association seeking to enforce compliance with the Act.

EFFECTIVE DATE: October 1, 2022