

## ELECTRIC CAR CHARGING STATIONS: OPPORTUNITIES, CHALLENGES FOR OWNERS

*Electric cars aren't only about gas prices—they can also recharge your commercial property.*

By **Steven P. Heller, Esq.**

**E**lectric cars aren't only about gas prices—they can also recharge your commercial property. The coming electric vehicle market will benefit real estate owners who can exploit the demand for EV charging stations.

Some property owners have already acted. An initial spark of office buildings and parking lot operators have installed charging stations. Retail installations have occurred in the Mall of America in Minnesota, and in South Coast Plaza and Stanford Shopping Center in California, as well as in supermarkets like Whole Foods and Fred Meyer.

This time, the electric car wave looks to be for real: up to 10% of cars could be electric by 2020. Government tax incentives are prompting automakers, utility companies and EV station providers to team up to rapidly expand networks of charging stations to support electric cars.

The demand for easy-access charging stations is an opportunity for commercial property owners to make their properties more attractive and to add a new source of revenue. But going along for this ride also requires successful navigation of the property management challenges presented, including (1) practical questions relating to allocation of common area space, (2) use and parking

issues raised by limitations set forth in a property's covenants, conditions and restrictions document (CC&Rs), which governs how a property can be used and operated, and (3) simple technical matters.

Charging stations come in three basic levels of power. For homes, a customary "level 1" charger is relatively inexpensive (perhaps \$1,000 - \$1,500) and could take overnight (or longer) to fully charge a Chevy Volt or Nissan Leaf.

Commercial charging stations are the stronger "level 2" or even more powerful "DC Fast" (or "level 3"). Level 2 power may range from roughly 20 to 80 miles of travel (per hour of charging); the level 2 purchase cost may range from \$2,500 to \$10,000, depending on the power capacity and other features. Because a full charge from "empty" is rare (and even a partial charge can power a car for 10 or 40 or 80 miles), typical charging times for routine driving can be short enough so that level 2 chargers are serviceable commercially. A level 3 charger fully charges a car in about 30 minutes, but at a substantial purchase cost (I've seen estimates from \$20,000 to \$100,000). Servicing approaches also exist where chargers are provided without the property owner paying any upfront cost.

In any event, property owners may increasingly find that the benefits are worth the price.

Some property owners purchase a charging station merely for the indirect benefits that will accrue to the project. A charging station is an amenity that will attract customers to retail centers (and keep them shopping during charging time), bring customers to parking lots, and help retain tenants in all commercial buildings. For pure public relations value, installing a charging station bestows great press, brings attention to the project, burnishes the owner's environmental image, and provides an actual service to communities where the number of electric car owners is growing. Charging stations will also provide points for owners seeking LEED or similar green certifications for their projects.

The best benefit is money. It's not yet clear what sort of profit center a charging station can be because companies are

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taking various alternate approaches to monetization. By law, only utility companies can sell electricity directly to customers. Presumably one or two dominant models will emerge as the market evolves and matures.

Some owners charge “rent” for use of the parking space while the car charges up, or a simple fee for providing the charging station service. Charging station providers give property owners a percentage of their revenues or give owners rights to LED advertising space visible on the station equipment; some of these service companies will provide the station to the property (and maintain it) at no cost to the property owner. Other models will surely arise to creatively monetize the value of installing a charging station on a commercial property.

To benefit from this newfangled EV market, property owners will first need to undertake old-fashioned real property analysis.

First, a practical question: Where will the charging station go?

Finding an accessible location could remove standard parking spaces needed to meet parking ratios required by code or by major retailer leases. Consider that charging each vehicle could take a long time. Also, a long queue of cars seeking a charge could disrupt circulation patterns in a shopping center or office building parking lot.

Provisions in leases or recorded operations agreements may present legal and accounting jams to maneuver through. Use restrictions may limit the property owner’s rights, requiring

careful review of the use provisions of CC&Rs and of major tenant leases to see if a violation is triggered by a charging station (which was not likely contemplated by older leases). Queuing and circulation problems are heightened if they occur in a major retailer’s protected approval area.

The cost of purchasing a charging station may be a capital item that ownership cannot pass through to tenants. Consider whether pass-through is permissible even for ongoing operation and maintenance expenses, or for monthly electric utility charges incurred from the station. If the charging station proves popular, a landlord may also need to contend with allocating this benefit fairly among tenants. For example, if the station is an amenity in an office building, the property manager will need to create a system for sharing charge time among tenants’ employees.

Lastly, the property owner will, of course, need to assess the various technical issues (e.g., electrical capacity) and, if a servicer company is used, any business terms (e.g., term and commitment, cost, etc.). These sorts of issues will likely evolve as the market matures.

The electric car market is in flux as it develops. An alternate model for keeping electric cars charged is battery swapping, where a subscribing driver simply switches out her discharged battery for a fully charged battery; the process takes about one minute and the driver doesn’t leave the car. Other providers are synching up networks of stations with email connections to indicate availability. A volunteer website (evchargermaps.com) shows locations

of existing charging stations across the country--I looked at the map where our law office is located on Ocean Avenue in downtown Santa Monica, and was surprised to see five stations indicated within just a few blocks, including Santa Monica Place shopping center, Santa Monica Pier and City Hall.

Legislation may also impact the role of real estate in providing electrical charging stations. Like some other states, New Jersey was recently considering a measure that would *require* developers to provide EV charging stations at new shopping centers as part of a package of tax incentives encouraging the development of the EV market; given the daunting cost to developers, the measure was not expected to pass, but is an indication of where this new market may take real estate developers and managers.

The technology will undoubtedly advance and real estate’s role and opportunities will adjust along with it. Each new set of circumstances will have implications for real estate owners, and will require careful real property analysis.

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*This article was originally published in Real Estate Finance & Investment, April 21, 2011. © 2007 Institutional Investor Ltd.*