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Ms. Hollynn Delil
P.O. Box 160
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Via U.S. Mail and e mail

RE: Evaluation of June 30, 2014 Richard Weinert Memorandum regarding
“Accessibility of Electrical Vehicle Charging Stations”

Dear Ms. Delil:

Per your request, I have evaluated Richard Weinert’s June 30, 2014 Memorandum entitled “Review of 2013 CALGreen Code Rulemaking Regarding Accessibility of Electrical Vehicle Charging Stations” (hereafter “the Memo”) and offer the following conclusions and evaluation to the most significant issues raised in the Memo.

BOTH FEDERAL AND CALIFORNIA STATUTES AND IMPLEMENTING REGULATIONS AND STANDARDS REQUIRE THAT A HOUSING PROVIDER WHO INSTALLS EVSE/ EVCS ¹ IN A COMMON USE AREA ON A BUILDING SITE DEDICATE A MINIMUM OF ONE COMPLIANT PARKING SPACE FOR EXCLUSIVE USE BY PERSONS WITH DISABILITIES

The Memo does not dispute that parking spaces are subject to the federal standards of the ADA (ADAAG/ADAS) and the California standards associated with the Unruh Act and the Disabled Persons’ Act (California Building Code [CBC]), both of which standards require **dedicated**² accessible parking spaces for persons with disabilities and both of which have specified slope, length, width, signage, etc. requirements. In this regard, the requirement for the number of such **dedicated** accessible parking spaces is 1 for every 25 parking spaces, but not less than 1.

In addition, the Memo does not dispute that parking spaces are the locations in which the EVSE/EVCS charging services will take place.

Nevertheless, based on the premise that “...it is **more** appropriate for the EVSE/EVCS to be denoted as providing a service as opposed to treating the “charging station” as a parking

¹ Electric Vehicle Service Equipment and Electric Vehicle Charging Station.

² “dedicated” means that the accessible parking space will for the exclusive use of persons with disabilities.

space.” the Memo concludes that “The FHAA, the ADA, the FEHA, and the Unruh Act **would not require a housing provider to dedicate** an EVSE/EVCS to persons with disabilities, nor would it require any signage (for persons with disabilities) for the EVSE/EVCS in a common use area on the building site.” (Memo, first and second pages; Bold added).

The problem with the Memo’s premise is that the location of the charging stations and services are in fact parking spaces that are subject to applicable federal ADA statutes, implementing regulations and standards and applicable California statutes, implementing regulations and standards **that require 1 dedicated parking space for every 25 spaces, but not less than 1** for as long as it takes the parked vehicle to charge, which may be for an extended period of time. The fact that a charging station and service is provided at the parking space 1) does not override or abrogate the statutory, regulatory, and standard requirements for parking spaces, which include the requirement for the 1 in 25, but no less than 1, dedicated parking space for persons with disabilities and 2) is not inconsistent with providing such a dedicated parking space. Put another way, the parking space charging stations are both a parking space subject to the federal and state dedication requirements for persons with disabilities and a place where an electric vehicle charging takes place. Any interpretation to the contrary would be contrary to the clearly spelled out requirements for parking spaces and would also run afoul of the policy to interpret such civil rights statutes broadly, with a view to maximizing access for persons with disabilities and to not frustrate the purposes of such civil rights statutes. (see, e.g, Greater Los Angeles Council on Deafness, Inc. v. Zolin (9th Cir. 1987) 812 F.2d 1103, 1113)

Curiously, despite the fact the the Memo argues that there is no requirement to provide a dedicated accessible parking place, it nevertheless indicates that in fact there will be a dedicated accessible and compliant EVCS parking space adjacent to or near the non dedicated³ accessible charging station. In this regard, the Memo states in part on the second page as follows:

“...Thus, in most instances, a person with disabilities would have equal or greater access to the installed EVSE/EVCS because, when installed, it would be adjacent to an accessible parking space providing persons with disabilities with not only one EVSE/EVCS, but **two charging stations, with one being a dedicated parking space.**” (Bold added)

If in fact the above language means that there are two chargers, one for the dedicated parking space charging station and one for the non dedicated parking space charging station then, with the addition of a sign at both saying that parking space charging stations may only be used for charging and only for so long as the vehicle is charging, that would resolve the issue that presently is unresolved for a dedicated accessible parking space charging station and charging

³ “Non dedicated” means that the accessible parking space will for the use of all persons rather than just by persons with disabilities.

equipment. If that is not what was meant, then the issue can be resolved by modifying the language to add the charging equipment at the dedicated station and a sign at both stations saying that parking may only be for so long as the vehicle is charging.

‘EQUAL ACCESS’ REQUIRES A DEDICATED ACCESSIBLE PARKING SPACE FOR EVCS / EVCE CHARGING SERVICES

I agree with that portion of the Memo that states that the FFHA, the ADA, the FEHA and the Unruh Act mandates “equal access” when an EVSE/EVCS provider provides a charging service. (Memo, first and third pages).

I do not agree with that portion of the Memo that posits that the “equal access” requirement is satisfied in situations in which there is no dedicated EVCS. (Memo, third page, item IV)

First, the federal and state statutory, regulatory, and standard requirements for dedicated accessible parking spaces as discussed, supra, (1 for every 25 spaces, but not less than 1), is the “equal access” requirement of the statutes and implementing regulations and standards for parking spaces for persons with disabilities only. And as discussed supra, the Memo states that one such dedicated parking space will be provided. All that is needed for this dedicated parking space charging station to provide “equal access” with the non dedicated space is either confirmation or agreement that the dedicated space will have its own charging equipment.

Second, if for purposes of argument only there was a requirement for multiple parking space charging stations and charging equipment but not a requirement for a dedicated parking space charging station with its own charger provided (1 in 25 but no less than 1), **then “equal access” would require that each and every charging station comply with the parking space accessibility requirements of the ADA implementing regulations and standards (ADAAG or ADAS) and Unruh Act and Disabled Person’s Act implementing regulations and standards (CBC). For example, under a scenario in which 10 parking space charging stations and charging equipment were required, “equal access” would require that all ten comply with the ADA and CBC standards for slope, width, length, etc.** Otherwise, persons with disabilities would not have “equal access” to the parking space charging stations and charging equipment as would persons without disabilities.⁴

The solution to the issues discussed in the Memo and in this letter is easily within reach by compromise, either 1) by agreement that 1 of every 25 parking spaces, but not less than 1,

⁴ Under the scenario of 1 dedicated accessible parking space charging station per 25 parking space charging station, but no less than 1, only 1, rather than 10, would be required to comply with the parking space requirements for slope, width, length, etc.

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will be a compliant, accessible, and dedicated parking space for the Electric Vehicle Charging Station (EVCS) with it own Electric Vehicle Charging Equipment (EVCE) or 2) by agreement that each and every parking space at the location of each and every Electric Vehicle Charging Station(EVCS) will be a compliant and accessible, but non dedicated, parking space for each of the Electric Vehicle Charging Stations (EVCS) with its own Electric Vehicle Charging Equipment (EVCE).

Very truly yours,

SIDNEY J. COHEN
PROFESSIONAL CORPORATION
/s/ Sidney J. Cohen
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