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***“13 Keys to Success” – The lawyer’s list  
Three hottest issues for hoteliers in 2021***

## 2021 BLLA Investment Conference

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HotelLawyer.com

# Focus on *Independent* Boutique hotels

2

Focus today is INDEPENDENT boutiques

- Independent = **not** affiliated with large chain
- Boutique hotels
  - Smaller and more intimate (40-250 rooms)
  - Unique and distinctive in character, design, architecture, theme, F&B
  - Have a “spark” – fun and exciting

# Advantages and challenges

3

## The independence brings Advantages & Challenges

- Free of brand charges (12-14% of gross)
- Free of brand regulations and rules
- Greater owner-operator input and control
- Greater bottom line profit *potential*
- Need to makeup for lack of brand support

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# 13 Keys to Success – The creative lawyer's list

5

## 1. Assembling the right team

Engage the professionals at the outset

(that includes the ***creative lawyers!***)

# Building the right team *from the start*

6

Team of professionals that "gets it" . . . shares your vision of the project – on both the creative and legal

- Creative is not just for architects and designers
- Need *creative business and legal advisors*
- Top expertise in every area
- So many legal specialties
- 1-stop shopping – seamless coordination & consistency

# When to bring in the hotel professionals

7

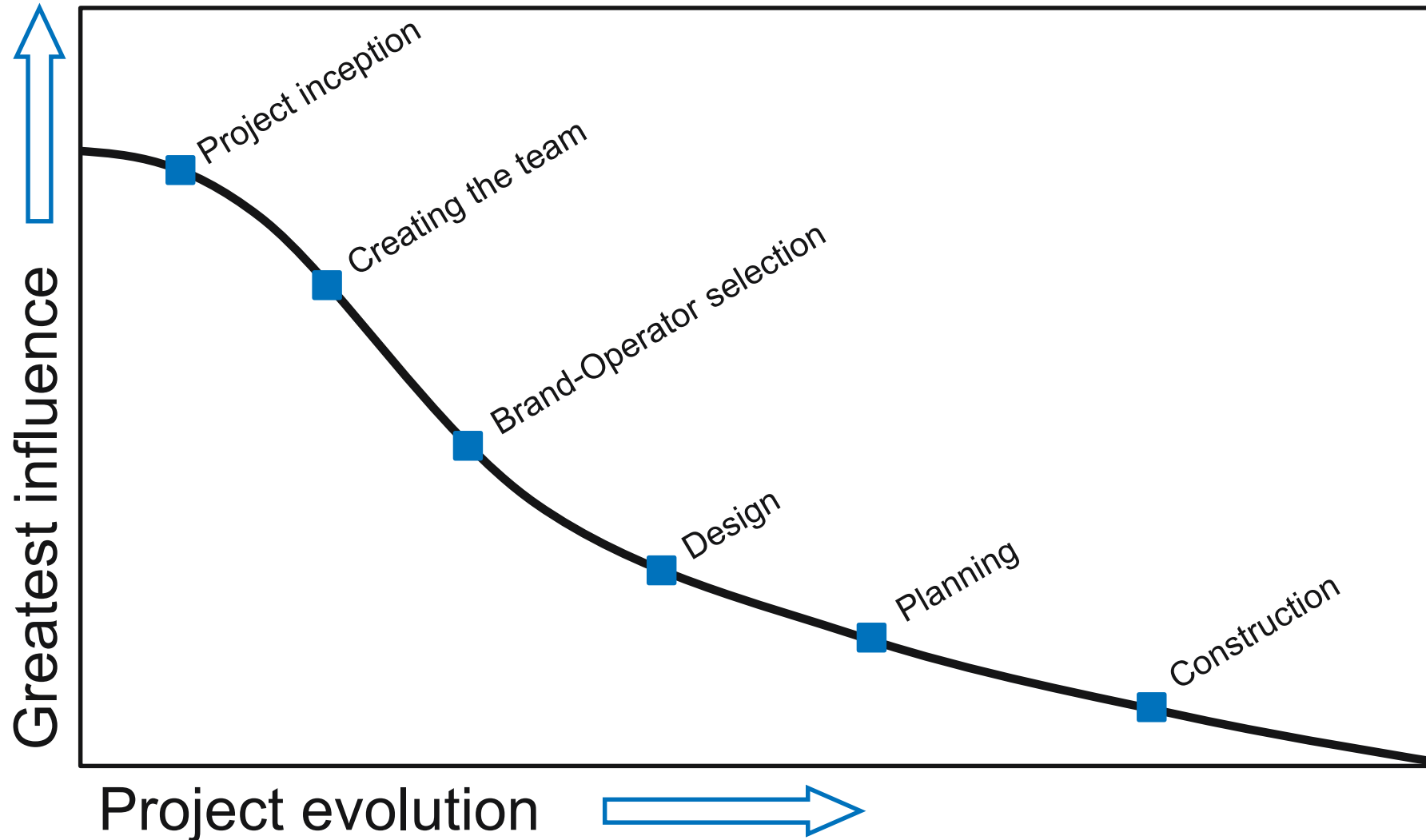
When?

From the start!

Why?

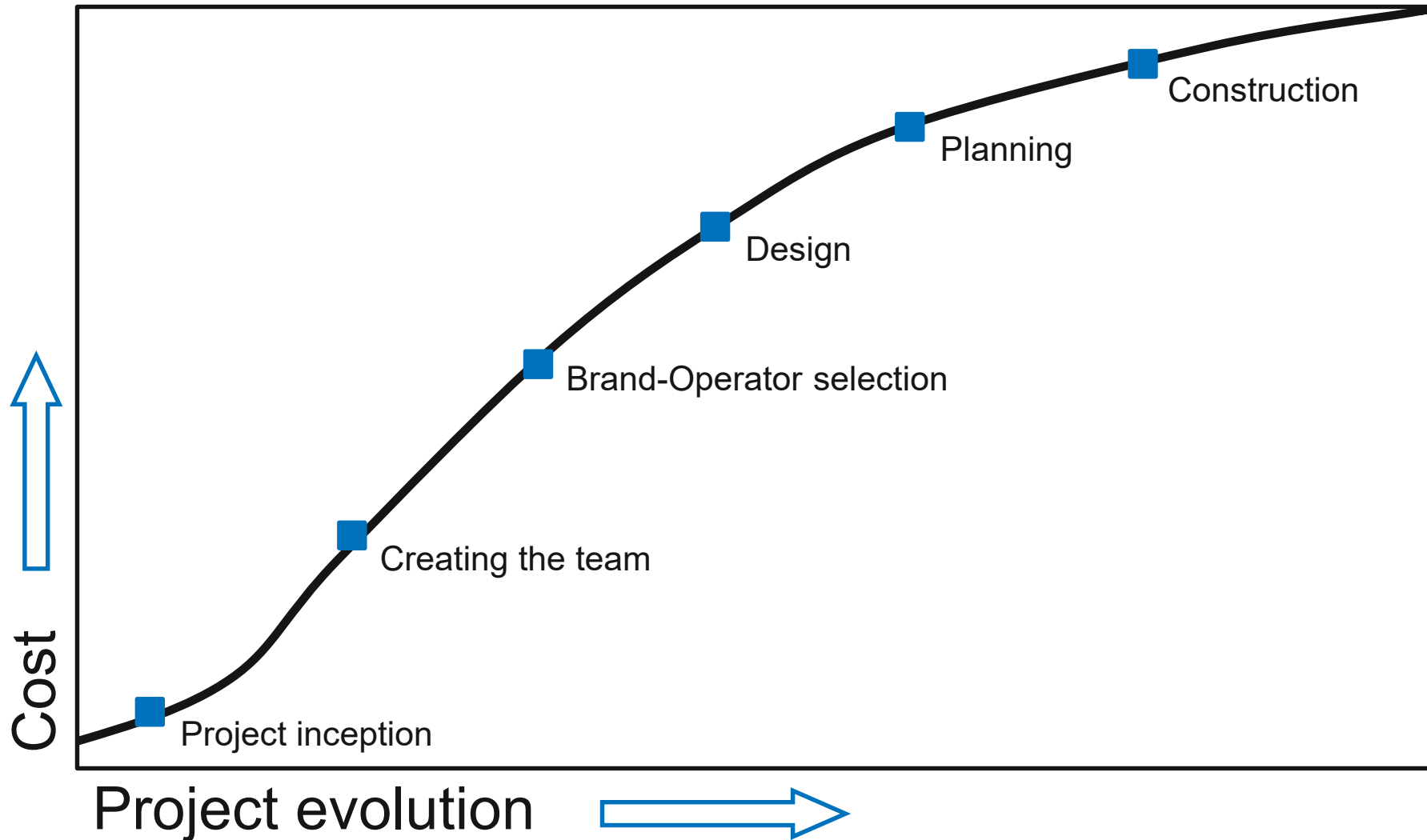
# Ability to influence outcome

8



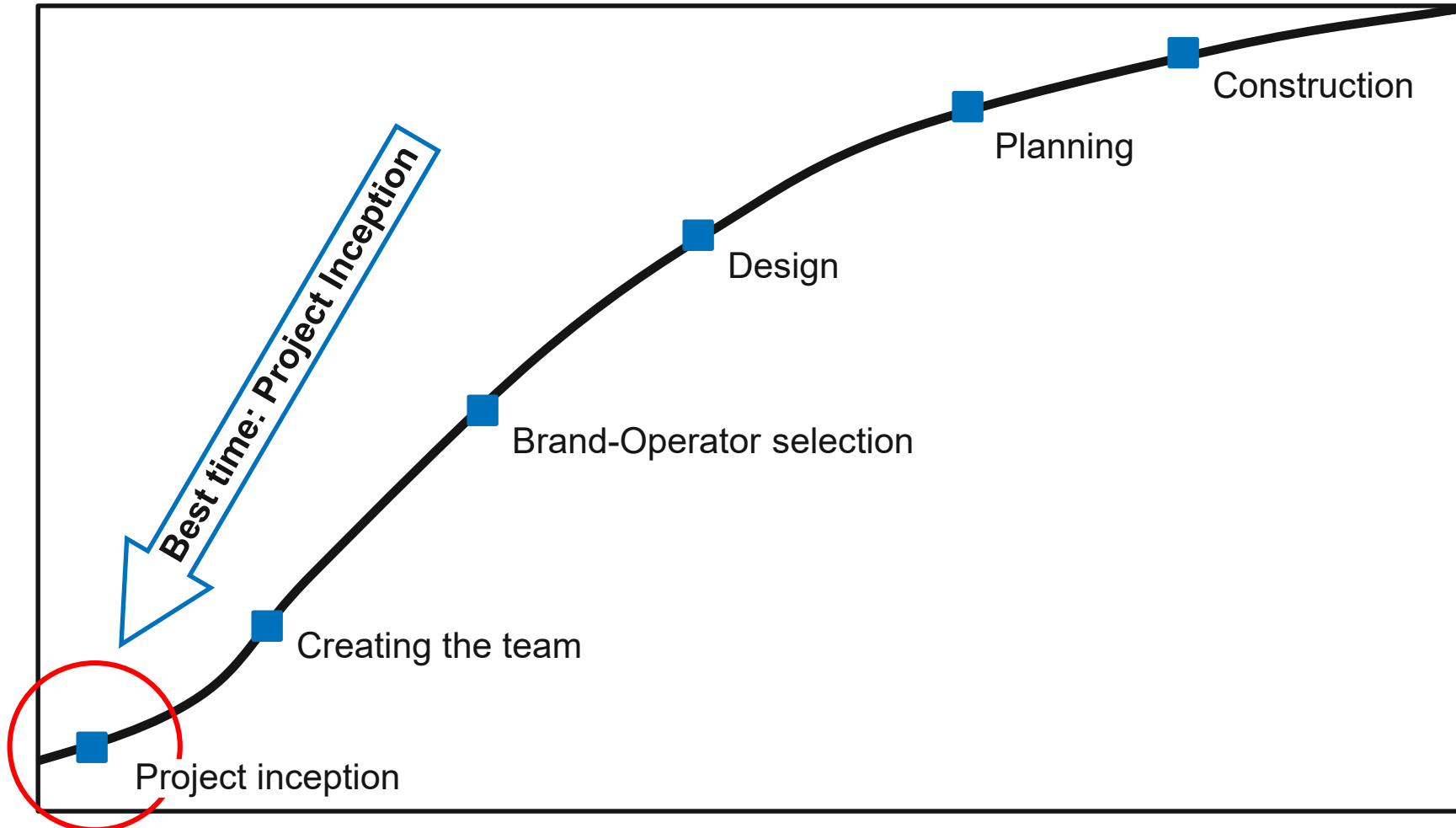


# Cost in relationship to stage of project



# Best time to engage hotel professionals

10



# The Keys to Success – #2

11

2. Legal and business structure for ownership, taxes, liability, control, financing
3. Development, acquisition or conversion for independent property – entitlements, title, PSA, due diligence
4. Contracts for design, architecture, construction
5. Hotel management and affiliation agreements
6. Labor & employment – manuals, agreements, regulatory compliance, stay union free, dangerous claims

# The Keys to Success – #3

12

7. Regulatory compliance – permits, liquor licenses, entitlements, ADA, COVID regulations
8. F&B concepts and agreements – leases, employment contracts, chef deals, joint ventures, licensing
9. Contracts – vendor contracts, reservation systems, security, IT, data privacy, web site, non-disclosure, trade secret, confidentiality
10. Ground leases and equipment leases

# The Keys to Success – #3

13

11.Litigation (and arbitration)

12.Intellectual Property – tradename and branding

13.Financing – tough but getting better . . . And then there is C-PACE!



***Financing and labor issues for  
hoteliers in 2021***

# C-PACE financing

15

## What is C-PACE financing?

- PACE = **P**roperty **A**ssessed **C**lean **E**nergy
- C-PACE = **C**ommercial PACE (for any CRE class)
- Extension of local assessment district concept
- Requires state and local legislation
- Finance **eligible expenditures** (improve energy and water efficiency)

# C-PACE eligible expenditures

16

- 100% of all costs associated with **energy and water efficiency** improvements
- **Resilience for Seismic** (CA and OR), **Fire** (CA), **Storm** (FL)
- **New improvements**, retrofits and upgrades
- **New construction** (CA)
- **Retroactive PACE** (CA) – past 36 months



# C-PACE eligible efficiency expenditures

17

- Air Sealing and Ventilation
- Insulation
- HVAC
- Lighting
- Building Envelope
- Roofing
- Water Heating
- Refrigeration
- Compressed Air
- Charging Stations
- Elevator Modernization
- Renewable energy (solar, wind, fuel cell, cogen)
- Water fixtures
- Water irrigation
- Landscaping & reuse

# C-PACE – Why now?

18

C-PACE has moved into the mainstream

In the last few years - explosive growth

37 states have enabled

25 states have active programs

\$1.5+ billion funded on 2,100+ properties

Total doubled in less than a year (from 2020 to 2021)

Available for all CRE, but very hotel-friendly

NY just implementing now

# C-PACE advantages

19

- Fixed rate financing (5-6%)
- Term up to 20-30 years
- No personal recourse
- Capitalized interest can avoid any payment for years
- Can negotiate interest-only
- No acceleration on default
- Pre-payable and assumable
- No due-on-sale
- Can be meaningful portion of the capital stack
- Fast and efficient process
- Limited default triggers
- No financial covenants/tests

# C-PACE challenges

20

- **Two major concerns**
  - Need senior lender approval
  - Requires state and local enablement
- Higher interest than typical senior debt (lower than mezz)
- Increases property taxes

# C-PACE – For more information

21

<https://hotellaw.jmbm.com/category/c-pace-financing>

- [C-PACE Financing – Now an accepted tool for hotel lenders and borrowers](#)
- [C-PACE Financing Lawyer: New York opening Commercial PACE](#)
- [C-PACE on a Roll: \\$6 million loan for Kimpton La Peer, West Hollywood](#)
- [C-PACE on a Roll: \\$42 million loan for citizenM, Los Angeles](#)
- [Free webinar: Should you be looking at C-PACE financing now?](#)

# Labor & Employment

22

Labor costs and workforce issues are top concern

- Regulations:
  - Re-opening, call backs, hiring
  - COVID related issues for workforce and guests
- Unions – union free or working with the union
- Preventing & defending claims: harassment, discrimination, wrongful termination, wage and hour

# Jim Butler

23

Jim Butler is a founding partner of Jeffer Mangels Butler & Mitchell LLP, and chairman of the Firm's Global Hospitality Group®. One of the top hotel lawyers in the world, he devotes 100% of his practice to hospitality, providing unmatched hotel business experience and practical legal advice.

Jim and his team represent lenders, owners, developers, independent management companies and capital providers on their hotel projects worldwide. The Group brings more than 30 years' of hotel experience with more than 4,300 hotels valued at more than \$104.7 billion. They have worked on more than 2,100 hotel management and franchise agreements and more than 100 hotel mixed-use developments.

More information is available at [HotelLawyer.com](http://HotelLawyer.com).





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