
Section 1: 8-K (FORM 8K)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

Current Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): March 26, 2019

ESSEX PROPERTY TRUST, INC. ESSEX PORTFOLIO, L.P.

(Exact Name of Registrant as Specified in Its Charter)

001-13106 (Essex Property Trust, Inc.)

333-44467-01 (Essex Portfolio, L.P.)

(Commission File Number)

Maryland (Essex Property Trust, Inc.)

California (Essex Portfolio, L.P.)

(State or Other Jurisdiction of Incorporation)

77-0369576 (Essex Property Trust, Inc.)

77-0369575 (Essex Portfolio, L.P.)

(I.R.S. Employer Identification No.)

1100 Park Place, Suite 200

San Mateo, CA 94403

(Address of principal executive offices, including zip code)

(650) 655-7800

(Registrant's telephone number, including area code)

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter):

Essex Property Trust, Inc.	Emerging growth company	<input type="checkbox"/>
Essex Portfolio, L.P.	Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.



Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On March 26, 2019, Essex Portfolio, L.P. (the “Operating Partnership”), the operating partnership of Essex Property Trust, Inc. (the “Company”), issued \$150.0 million aggregate principal amount of its 4.000% Senior Notes due 2029 (the “Notes”). The Notes will be issued as additional notes under the indenture, dated February 11, 2019 (the “Indenture”), among the Operating Partnership, as issuer, the Company, as guarantor, and U.S. Bank National Association, as trustee, under which the Operating Partnership previously issued \$350.0 million aggregate principal amount of its 4.000% Senior Notes due 2029 on February 11, 2019 (the “Initial Notes”). The Notes will have substantially identical terms as the Initial Notes, will be treated as a single series of securities with the Initial Notes under the Indenture and will have the same CUSIP number as the Initial Notes. Holders of the Notes and the Initial Notes will vote as one class under the Indenture.

The Operating Partnership offered the Notes at 100.717% of the principal amount thereof. The net proceeds from the issuance of the Notes will be approximately \$150.0 million, after deducting the underwriting discount and estimated offering expenses. The Operating Partnership intends to use the net proceeds of this offering to repay indebtedness under the Operating Partnership’s \$1.2 billion unsecured line of credit facility and the Operating Partnership’s \$35.0 million unsecured working capital line of credit facility, and for other general corporate and working capital purposes.

The Notes are general unsecured senior obligations of the Operating Partnership and will rank equally in right of payment with all other senior unsecured obligations of the Operating Partnership. However, the Notes are effectively subordinated in right of payment to all of the Operating Partnership’s existing and future secured indebtedness (to the extent of the value of the collateral securing such indebtedness) and to all existing and future secured and unsecured liabilities and preferred equity of the Operating Partnership’s subsidiaries, including guarantees by the Operating Partnership’s subsidiaries of the Operating Partnership’s other indebtedness. The Notes bear interest at 4.000% per annum. Interest is payable semi-annually in arrears on March 1 and September 1 of each year, commencing September 1, 2019, until the maturity date of March 1, 2029. The Operating Partnership’s obligations under the Notes are fully and unconditionally guaranteed by the Company.

Prior to December 1, 2028, the Notes will be redeemable in whole at any time or in part from time to time, at the Operating Partnership’s option and in its sole discretion, at a redemption price equal to the greater of:

- 100% of the principal amount of the Notes being redeemed; or
- the sum of the present values of the remaining scheduled payments of principal and interest on the Notes to be redeemed that would be due if such Notes matured on December 1, 2028 but for the redemption (not including any portion of such payments of interest accrued as of the redemption date) discounted to the redemption date on a semi-annual basis at the Adjusted Treasury Rate (as defined in the Indenture) plus 25 basis points,

plus, in each case, accrued and unpaid interest thereon to, but excluding, the applicable redemption date; however, if a redemption date falls after a record date and on or prior to the corresponding interest payment date, the Operating Partnership will pay the full amount of accrued and unpaid interest and premium, if any, due on such interest payment date to the holder of record at the close of business on the corresponding record date.

Notwithstanding the foregoing, if the Notes are redeemed on or after December 1, 2028, the redemption price will be equal to 100% of the principal amount of the Notes being redeemed plus accrued and unpaid interest thereon to, but excluding, the redemption date.

The Indenture contains various restrictive covenants, including limitations on the Operating Partnership’s ability to consummate a merger, consolidation or sale of all or substantially all of its assets and limitations on its ability to incur additional secured and unsecured indebtedness.

Certain events are considered events of default, which may result in the accelerated maturity of the Notes, including:

- default for 30 days in the payment of any installment of interest under the Notes;
- default in the payment of the principal amount or redemption price due with respect to the Notes, when the same becomes due and payable;
- the failure by the Operating Partnership or the Company to comply with any of its other agreements contained in the Notes or the Indenture upon receipt by it of notice of such default by the trustee or by holders of not less than 25% in aggregate principal amount of the Notes then outstanding and the failure by the Operating Partnership or the Company to cure (or obtain a waiver of) such default within 60 days after it receives such notice;
- failure to pay any indebtedness for money borrowed by the Operating Partnership, the Company or any subsidiary in which the Operating Partnership has invested at least \$50.0 million in capital (a “Significant Subsidiary”) in an outstanding principal amount in excess of \$50.0 million at final maturity or upon acceleration after the expiration of any applicable grace period, which indebtedness is not discharged, or such default in payment or acceleration is not cured or rescinded, within 30 days after written notice to the Operating Partnership from the trustee (or to the Operating Partnership and the trustee from holders of at least 25% in principal amount of the outstanding notes); or
- certain events of bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee of the Operating Partnership, the Company or any Significant Subsidiary or any substantial part of their respective property.

The foregoing description of the Indenture does not purport to be complete and is qualified in its entirety by the full text of the Indenture, including the form of the Notes and guarantee of the Notes by the Company, which is attached as Exhibit 4.1 to the Current Report on Form 8-K filed jointly by the Operating Partnership and the Company on February 11, 2019.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
4.1	Indenture, dated February 11, 2019, among Essex Portfolio, L.P., Essex Property Trust, Inc., and U.S. Bank National Association, as trustee, including the form of 4.000% Senior Notes due 2029 and the guarantee thereof (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed jointly by Essex Portfolio, L.P. and Essex Property Trust, Inc. on February 11, 2019).
5.1	Opinion of Latham & Watkins LLP.
5.2	Opinion of Venable LLP.
23.1	Consent of Latham & Watkins LLP (included in Exhibit 5.1).
23.2	Consent of Venable LLP (included in Exhibit 5.2).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrants have duly caused this report to be signed on their behalf by the undersigned, hereunto duly authorized.

Date: March 26, 2019

ESSEX PROPERTY TRUST, INC.

/s/ Daniel J. Rosenberg

Name: Daniel J. Rosenberg

Title: Senior Vice President, General Counsel and Secretary

ESSEX PORTFOLIO, L.P.

By: Essex Property Trust, Inc.

Its: General Partner

/s/ Daniel J. Rosenberg

Name: Daniel J. Rosenberg

Title: Senior Vice President, General Counsel and Secretary

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Section 2: EX-5.1 (EXHIBIT 5.1)

Exhibit 5.1

12670 High Bluff Drive
San Diego, California 92130
Tel: +1.858.523.5400 Fax: +1.858.523.5450
www.lw.com

LATHAM & WATKINS LLP

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Madrid	Tokyo
Milan	Washington, D.C.

March 26, 2019

Essex Property Trust, Inc.
Essex Portfolio, L.P.
1100 Park Place, Suite 200
San Mateo, CA 94403

Re: Registration Statement Nos. 333-227600 and 333-227600-01; \$150,000,000 Aggregate Principal Amount of 4.000% Senior Notes due 2029

Ladies and Gentlemen:

We have acted as special counsel to Essex Portfolio, L.P., a California limited partnership (the “*Operating Partnership*”), in connection with the issuance by the Operating Partnership of its \$150,000,000 aggregate principal amount of 4.000% Senior Notes due 2029 (the “*Notes*”) and the guarantee of the Notes (the “*Guarantee*”) by Essex Property Trust, Inc., a Maryland corporation (the “*Guarantor*”), under an Indenture, dated as of February 11, 2019 (the “*Indenture*”), among the Operating Partnership, the Guarantor and U.S. Bank National Association, as trustee, and pursuant to (i) a registration statement on Form S-3 under the Securities Act of 1933, as amended (the “*Act*”), filed with the Securities and Exchange Commission (the “*Commission*”) on September 28, 2018 (Registration Nos. 333-227600 and 333-227600-01) (as amended, the “*Registration Statement*”), (ii) a base prospectus, dated September 28, 2018, included as part of the Registration Statement (the “*Base Prospectus*”), (iii) a preliminary prospectus supplement, dated March 19, 2019, filed with the Commission pursuant to Rule 424(b) under the Act, (iv) a prospectus supplement, dated March 19, 2019, filed with the Commission pursuant to Rule 424(b) under the Act (together with the Base Prospectus, the “*Prospectus*”), and (v) an underwriting agreement, dated March 19, 2019, among J.P. Morgan Securities LLC, Citigroup Global Markets Inc., U.S. Bancorp Investments, Inc. and Wells Fargo Securities, LLC, as representatives of the several underwriters named in the underwriting agreement, the Operating Partnership and the Guarantor (the “*Underwriting Agreement*”). For the avoidance of doubt, it is understood and agreed that for purposes of this letter, the term “Notes” shall exclude the \$350,000,000 aggregate principal amount of the Operating Partnership’s 4.000% Senior Notes due 2029 sold by the Operating Partnership on February 11, 2019. This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or Prospectus, other than as expressly stated herein with respect to the issue of the Notes and the Guarantee.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Operating Partnership, the Guarantor and others as to factual matters without having independently verified such factual matters.

We are opining as to the internal laws of the State of New York, and we express no opinion with respect to the applicability to the opinion expressed herein, or the effect thereon, of the laws of any other jurisdiction, or as to any matters of municipal law or the laws of any local agencies within any state. Various issues pertaining to Maryland law are addressed in the opinion of Venable LLP, separately provided to you. We express no opinion with respect to those matters, and to the extent elements of those opinions are necessary to the conclusions expressed herein, we have, with your consent, assumed such matters.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, when the Notes have been duly executed, issued and authenticated in accordance with the terms of the Indenture and delivered against payment therefor in the circumstances contemplated by the Underwriting Agreement, the Notes and the Guarantee will be legally valid and binding obligations of the Operating Partnership and the Guarantor, respectively, enforceable against the Operating Partnership and the Guarantor in accordance with their respective terms.

Our opinion is subject to: (i) the effects of bankruptcy, insolvency, reorganization, preference, fraudulent transfer, moratorium or other similar laws relating to or affecting the rights or remedies of creditors; (ii) the effects of general principles of equity, whether considered in a proceeding in equity or at law (including the possible unavailability of specific performance or injunctive relief), concepts of materiality, reasonableness, good faith, fair dealing and the discretion of the court before which a proceeding is brought; (iii) the invalidity under certain circumstances under law or court decisions of provisions for the indemnification or exculpation of, or contribution to, a party with respect to a liability where such indemnification, exculpation or contribution is contrary to public policy; and (iv) we express no opinion with respect to (a) any provision for liquidated damages, default interest, late charges, monetary penalties, prepayment or make-whole premiums or other economic remedies to the extent such provisions are deemed to constitute a penalty; (b) consents to, or restrictions upon, governing law, jurisdiction, venue, service of process, arbitration, remedies or judicial relief; (c) the waiver of rights or defenses contained in Section 4.07 of the Indenture; (d) any provision requiring the payment of attorneys' fees, where such payment is contrary to law or public policy; (e) provisions purporting to make a guarantor primarily liable rather than as a surety and provisions purporting to waive modifications of any guaranteed obligation to the extent such modification constitutes a novation; (f) advance waivers of claims, defenses, rights granted by law, or notice, opportunity for hearing, evidentiary requirements, statutes of limitation, trial by jury or at law, or other procedural rights; (g) waivers of broadly or vaguely stated rights; (h) covenants not to compete; (i) provisions for exclusivity, election or cumulation of rights or remedies; (j) provisions authorizing or validating conclusive or discretionary determinations; (k) grants of setoff rights; (l) proxies, powers and trusts; (m) provisions prohibiting, restricting or requiring consent to assignment or transfer of any agreement, right or property; (n) provisions permitting, upon acceleration of any indebtedness (including the Notes), collection of that portion of the stated principal amount thereof which might be determined to constitute unearned interest thereon; and (o) the severability, if invalid, of provisions to the foregoing effect.

With your consent, we have assumed (a) that the Indenture, the Guarantee and the Notes (collectively, the “*Documents*”) have been duly authorized, executed and delivered by the parties thereto, (b) that the Documents constitute legally valid and binding obligations of the parties thereto other than the Operating Partnership and the Guarantor, enforceable against each of them in accordance with their respective terms, and (c) that the status of the Documents as legally valid and binding obligations of the parties is not affected by any (i) breaches of, or defaults under, agreements or instruments, (ii) violations of statutes, rules, regulations or court or governmental orders, or (iii) failures to obtain required consents, approvals or authorizations from, or make required registrations, declarations or filings with, governmental authorities.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing this opinion as an exhibit to the Guarantor’s and the Operating Partnership’s Current Report on Form 8-K dated March 26, 2019 and to the reference to our firm contained in the Prospectus under the heading “Legal Matters.” In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Latham & Watkins LLP

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Section 3: EX-5.2 (EXHIBIT 5.2)

Exhibit 5.2



750 E. PRATT STREET SUITE 900 BALTIMORE, MD 21202
T 410.244.7400 F 410.244.7742 www.Venable.com

March 26, 2019

Essex Property Trust, Inc.
Essex Portfolio, L.P.
1100 Park Place, Suite 200
San Mateo, California 94403

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have served as Maryland counsel to Essex Property Trust, Inc., a Maryland corporation (the “Company”), in its own capacity and in its capacity as sole general partner of Essex Portfolio, L.P., a California limited partnership (the “Operating Partnership”), in connection with certain matters of Maryland law arising out of the issuance and sale by the Operating Partnership of up to \$150,000,000 aggregate principal amount of the Operating Partnership’s 4.000% Senior Notes due 2029 (the “Notes”) and the guarantee by the Company (the “Guarantee”) of the obligations of the Operating Partnership under the Notes, covered by the above-referenced Registration Statement, and all amendments thereto (collectively, the “Registration Statement”), filed by the Company and the Operating Partnership with the United States Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “1933 Act”).

In connection with our representation of the Company, and as a basis for the opinion hereinafter set forth, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (hereinafter collectively referred to as the “Documents”):

1. The Registration Statement (File Nos. 333-227600 and 333-227600-01), and the related form of prospectus included therein, substantially in the form in which it was transmitted to the Commission under the 1933 Act, related to the offering and guarantee of the Notes;
2. The charter of the Company, certified by the State Department of Assessments and Taxation of Maryland (the “SDAT”);
3. The Sixth Amended and Restated Bylaws of the Company, as amended, certified as of the date hereof by an officer of the Company;
4. A certificate of the SDAT as to the good standing of the Company, dated as of a recent date;



5. The Fourth Amended and Restated Agreement of Limited Partnership of the Operating Partnership, certified as of the date hereof by an officer of the Company;

6. Resolutions adopted by the Board of Directors of the Company, in its own capacity and in its capacity as the sole general partner of the Operating Partnership, and by a duly authorized committee thereof, relating to, among other matters, (a) the sale and issuance of the Notes by the Operating Partnership and (b) the Guarantee of the Notes by the Company, certified as of the date hereof by an officer of the Company;

7. The Indenture, dated as of February 11, 2019 (the "Indenture" and, together with the Guarantee, the "Transaction Documents"), by and among the Operating Partnership, the Company and U.S. Bank National Association;

8. The Guarantee by the Company, contained in the Indenture;

9. A certificate executed by an officer of the Company, dated as of the date hereof; and

10. Such other documents and matters as we have deemed necessary or appropriate to express the opinion set forth below, subject to the assumptions, limitations and qualifications stated herein.

In expressing the opinion set forth below, we have assumed the following:

1. Each individual executing any of the Documents, whether on behalf of such individual or another person, is legally competent to do so.

2. Each individual executing any of the Documents on behalf of a party (other than the Company or the Operating Partnership) is duly authorized to do so.

3. Each of the parties (other than the Company or the Operating Partnership) executing any of the Documents has duly and validly executed and delivered each of the Documents to which such party is a signatory, and such party's obligations set forth therein are legal, valid and binding and are enforceable in accordance with all stated terms.

4. All Documents submitted to us as originals are authentic. The form and content of all Documents submitted to us as unexecuted drafts do not differ in any respect relevant to this opinion from the form and content of such Documents as executed and delivered. All Documents submitted to us as certified or photostatic copies conform to the original documents. All signatures on all Documents are genuine. All public records reviewed or relied upon by us or on our behalf are true and complete. All representations, warranties, statements and information contained in the Documents are true and complete. There has been no oral or written modification of or amendment to any of the Documents, and there has been no waiver of any provision of any of the Documents, by action or omission of the parties or otherwise.

The phrase “known to us” is limited to the actual knowledge, without independent inquiry, of the lawyers at our firm who have performed legal services in connection with the transactions covered by, and the issuance of, this opinion.

Based upon the foregoing, and subject to the assumptions, limitations and qualifications stated herein, it is our opinion that:

1. The Company is a corporation duly incorporated and validly existing under the laws of the State of Maryland and is in good standing with the SDAT.
2. The Company has the corporate power, in its own capacity and in its capacity as sole general partner of the Operating Partnership, to enter into and perform its obligations under the Indenture and, in its own capacity, to enter into and perform its obligations under the Guarantee.
3. The Indenture has been duly authorized, executed and, so far as is known to us, delivered by the Company, in its own capacity and in its capacity as sole general partner of the Operating Partnership, as applicable.
4. The Guarantee has been duly authorized, executed and, so far as is known to us, delivered by the Company.

The foregoing opinion is limited to the laws of the State of Maryland and we do not express any opinion herein concerning any other law. We express no opinion as to the applicability or effect of federal or state securities laws, including the securities laws of the State of Maryland, or as to federal or state laws regarding fraudulent transfers. The opinion expressed herein is subject to the effect of any judicial decision which may permit the introduction of parol evidence to modify the terms or the interpretation of agreements. We note that the Transaction Documents are each governed by the laws of the State of New York. To the extent that any matter as to which our opinion is expressed herein would be governed by the laws of any jurisdiction other than the State of Maryland, we do not express any opinion on such matter. We express no opinion with respect to the actions which may be required for the Operating Partnership, under its organizational documents, to authorize, execute, deliver or perform any document.

The opinion expressed herein is limited to the matters specifically set forth herein and no other opinion shall be inferred beyond the matters expressly stated. We assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that might change the opinion expressed herein after the date hereof.

This opinion is being furnished to you for submission to the Commission as an exhibit to the Company's Current Report on Form 8-K relating to the Notes (the "Current Report"), which is incorporated by reference in the Registration Statement. Latham & Watkins LLP, counsel to the Company, may rely on this opinion in connection with their opinion of even date herewith. We hereby consent to the filing of this opinion as an exhibit to the Current Report and the said incorporation by reference and to the use of the name of our firm therein. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the 1933 Act.

Very truly yours,

/s/ Venable LLP

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