

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>OLD YORK LLC <i>Plaintiff</i></p> <p style="text-align: center;">v.</p> <p>TOWNSHIP OF ABINGTON, et al. <i>Defendants</i></p>	<p>: : : : : : : :</p>	<p>CIVIL ACTION</p> <p>NO. 16-1731</p>
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ORDER

AND NOW, this 16th day of February 2017, upon consideration of the *motion to dismiss, or alternatively, for summary judgment*, [ECF 21], filed by Defendants Township of Abington (“Township”) and Kenneth J. Clark (“Defendant Clark”) (collectively, “Defendants”), Plaintiff’s response in opposition thereto, [ECF 24], and the allegations contained in the amended complaint, [ECF 19], it is hereby **ORDERED**, for the reasons set forth in the accompanying Memorandum Opinion filed on this day, that Defendants’ motion to dismiss is **GRANTED**, *in part*, and **DENIED**, *in part*, as follows:

- (1) the motion is granted with respect to Plaintiff’s due process claims asserted against Defendants, and these claims are hereby dismissed;
- (2) the motion is granted with respect to Plaintiff’s equal protection claims asserted against Defendant Clark, and these claims are hereby dismissed;
- (3) the motion is granted with respect to the state law tort claims asserted against the Township and Defendant Clark in his official capacity, and these claims are hereby dismissed; and,
- (4) the motion is denied with respect to Plaintiff’s equal protection claims asserted against the Township, and the state law tort claims asserted against Defendant Clark in his individual capacity.

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court