

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 22 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CAROL THOMAS,

No. 18-15444

Plaintiff-Appellant,

D.C. No. 3:16-cv-03819-CRB

v.

MEMORANDUM*

SAN FRANCISCO HOUSING
AUTHORITY,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted April 17, 2019**

Before: McKEOWN, BYBEE, and OWENS, Circuit Judges.

Carol Thomas appeals pro se from the district court's summary judgment and dismissal order in her action alleging race and disability discrimination under the Fair Housing Act ("FHA"). We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hoang v. Bank of Am., N.A.*, 910 F.3d 1096, 1100 (9th Cir. 2018)

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(dismissal on the basis of the applicable statute of limitations); *Avenue 6E Invs., LLC v. City of Yuma*, 818 F.3d 493, 497 (9th Cir. 2016) (summary judgment). We affirm.

The district court properly dismissed Thomas's disability claim under 42 U.S.C. § 3604(f)(3)(B) because this claim is time-barred. *See* 42 U.S.C. § 3613(a)(1)(A) and (B) (FHA claims are subject to two-year statute of limitations and are tolled while administrative proceedings are pending).

The district court properly granted summary judgment on Thomas's racial discrimination claim because Thomas failed to raise a genuine dispute of material fact as to whether defendant's failure to upgrade her to a larger unit or relocate her during renovation was discriminatory. *See Harris v. Itzhaki*, 183 F.3d 1043, 1051 (9th Cir. 1999) (elements of disparate treatment claim); *Pfaff v. U.S. Dep't of Hous. & Urban Dev.*, 88 F.3d 739, 745 (9th Cir. 1996) (elements of disparate impact claim).

We reject as without merit Thomas's contentions that the district court should have held trial where no triable disputes of material fact existed.

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.