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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JACQUELINE C. SIMONELLI,

Plaintiff - Appellant,

v.

CITY OF CARMEL-BY-THE-SEA,

Defendant - Appellee.

No. 13-16664

D.C. No. 3:13-cv-01250-LB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Laurel D. Beeler, Magistrate Judge, Presiding**

Submitted February 17, 2015***

Before: O'SCANNLAIN, LEAVY, and FERNANDEZ, Circuit Judges.

Jacqueline Simonelli appeals pro se from the district court's judgment dismissing for lack of subject matter jurisdiction her takings action arising out of

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

the City of Carmel-by-the-Sea's approval of a development next to Simonelli's property. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Colwell v. Dep't of Health & Human Servs.*, 558 F.3d 1112, 1121 (9th Cir. 2009), and we affirm.

The district court properly dismissed Simonelli's action as unripe because Simonelli had not been denied compensation through any state court procedures. *See Williamson Cnty. of Reg'l Planning Comm'n v. Hamilton Bank*, 473 U.S. 172, 175 (1985); *see also San Remo Hotel v. City & County of San Francisco*, 145 F.3d 1095, 1101-02 (9th Cir. 1998) (explaining that takings claims are unripe until the plaintiff has sought and been denied compensation through the state's procedures, and that abstention is "irrelevant" since there are no claims from which to abstain).

The City's requests to dismiss the appeal, and to strike Simonelli's declaration, presented in its answering brief, are denied.

AFFIRMED.