

JUN 21 2010

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOHN J. RIZZI,

Plaintiff - Appellant,

v.

CITY OF INDIAN WELLS; et al.,

Defendants - Appellees.

No. 09-55018

D.C. No. 2:08-cv-04818-SVW-
FMO

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

John J. Rizzi appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging violations of the Equal Protection Clause and

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

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

California state law. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo dismissal for failure to state a claim, and can affirm on any basis fairly supported by the record. *Vestar Development II, LLC v. General Dynamics Corp.*, 249 F.3d 958, 960 (9th Cir. 2001). We affirm.

Dismissal of Rizzi’s equal protection claim was proper because there is a “reasonably conceivable state of facts that could provide a rational basis for” defendants’ subsidized housing classification scheme. *Heller vs. Doe by Doe*, 509 U.S. 312, 320 (1993); *see also Roth v. Garcia Marquez*, 942 F.2d 617, 625 n.1 (9th Cir. 1991) (“[I]f a complaint is accompanied by attached documents, the court is not limited by the allegations contained in the complaint.”) (internal quotation marks and brackets omitted).

The district court did not abuse its discretion by dismissing Rizzi’s supplemental state law claim once it had granted judgment on the federal claim. *See* 28 U.S.C. § 1367(c)(3); *Moore v. Kayport Package Express, Inc.*, 885 F.2d 531, 537 (9th Cir. 1989).

Rizzi’s remaining contentions are unpersuasive.

AFFIRMED.