

MR. CORLETTA OBTAINS DISMISSAL OF CRIMINAL CHARGE IN LANDLORD/TENANT DISPUTE.

The moratorium on evictions created by **COVID-19** has created tensions within families and in Landlord/Tenant relationships, due to tenants virtually squatting in properties without paying rent and protected by the Eviction Moratorium, while landlords continue to incur costs for their properties without income.

This has understandably become a considerable source of tension between hard-pressed landlords who still must pay mortgages and operating expenses on the properties they rent to financially strapped tenants, many of whom have legitimate hardships due to loss of employment.

However, some tenants who receive Public Assistance, Section 8, or other government subsidies such as Unemployment Insurance Benefits, stimulus, etc., game the system. This occurred in one of Mr. Corletta's cases in **People v. I.M.** (Roch. City Ct., 8/21).

In that case, Mr. Corletta's client was the landlord. Their tenant was a Section 8 recipient who was cut off because they were not using the funds for rent and had an eviction proceeding brought against them. As a result, they were then living in the property for free after misusing the Section 8 funds.

The tenant then attempted to exclude Mr. Corletta's client from the property by claiming Mr. Corletta's client was "harassing" her, and changing the locks.

As a result, not only was Mr. Corletta's client not collecting any rent, but was unable to care for the property as it fell into disrepair.

Mr. Corletta's client then entered the property when the tenant was not there. The tenant contacted police, claiming Mr. Corletta's client attempted to burglarize the property and set it on fire, resulting in an extensive investigation, and a "Reckless Endangerment of Property" charge, when no evidence of arson could be found. The property allegedly "endangered" was the client's *own property*.

This was a difficult situation because both the authorities and the client intertwined the issues in the criminal case with landlord/tenant issues. The client expected Mr. Corletta to do something about the tenant. Mr. Corletta separated the issues, kept his eye on the ball, examined the evidence like in any other criminal case, and got the criminal charge completely dismissed *via* written Motion to Dismiss, which the District Attorney failed to respond to either in writing or orally, because there was no legal basis for the charge.

Mr. Corletta explained to the Court that the criminal charge was nothing more than a pretext to keep his client away from the property. Although the Judge was completely sympathetic and dismissed the charge, he echoed Mr. Corletta's analysis, and referred the client back to Landlord/Tenant Court to address the

issues involving the tenant. However, the client at least did not have the onus of a criminal charge hanging over their head.