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In *Horne v. Department of Agriculture*, 133 S. Ct. 2053 (2013), the Supreme Court held that raisin growers who object to a federal price-stabilization program can challenge the constitutionality of the price-stabilization program as a defense to an enforcement action brought by the government. That program, the Agricultural Marketing Agreement Act of 1937, 7 U.S.C. §§ 601 *et seq.*, requires raisin handlers to surrender a substantial portion of the annual raisin crop to the federal government before they can sell the remainder on the open market. On Friday, the Supreme Court again granted certiorari in *Horne*, No. 14-275, to decide whether the federal price-stabilization program violates the Takings Clause, which forbids the government to take private property for public use without just compensation.

Seeking to protect farmers against price fluctuations during the Great Depression, Congress passed the AMAA in 1937 to stabilize the price of raisins and other crops by limiting the supply on the open market. Under the Act's implementing regulations, a 47-member "Raisin Administrative Committee" reviews crop yields and economic data each year and recommends what portion of that year's crop should be set aside in a reserve pool; in recent years, the reserve pool has been as large as 47% of the raisin crop. The government arranges for the reserved portion of the crop to be sold overseas or in noncompetitive domestic markets (such as school-lunch programs), with the bulk of the proceeds claimed by the government to cover administrative costs and only a small fraction remitted to producers. Raisin handlers who refuse to comply with the program are subject to hefty fines.

The petitioners are raisin growers who became disillusioned with the government's price-stabilization program and ceased reserving the required portion of their crop. The government brought an enforcement action, and the petitioners argued in defense that the program amounts to an unconstitutional taking of their property without just compensation. The Ninth Circuit held that the program is not a "categorical taking" because it operates on personal property rather than real property; because producers benefit from market stabilization; and because producers can receive a portion of the proceeds from the reserve pool. Instead, the court reasoned, the program operates as a use restriction and is constitutional because it has a sufficient nexus to the government's goal of stabilizing raisin prices and imposes no more of a burden than is necessary to meet that goal.

The Supreme Court's decision in this case will likely be significant for all businesses operating in highly regulated industries. The Court's decision will clarify the extent to which the government can control prices and pursue other regulatory goals by imposing substantial restrictions on the use or sale of private property or by laying claim to a portion of a private business's proceeds.

Amicus briefs in support of the petitioner (or neither party) are due on March 9, 2015, and amicus briefs in support of the respondents are due on April 8, 2015, although these dates may be accelerated to accommodate the parties. Any questions about this case should be directed to Timothy S. Bishop (+1 312 701 7829) in our Chicago office.